

State of Colorado Office of Administrative Courts 1525 Sherman Street, 4 th Floor, Denver, Colorado 80203	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>[Mother] and [Father], Complainants,</p> <p>vs.</p> <p>Colorado Springs School District 11, Respondent.</p>	
Decision	

The evidentiary hearing in this matter was convened via teleconference before the undersigned Administrative Law Judge (“ALJ”) on October 13 and 14, 2025. Complainants [Mother] and [Father] (“Complainants”) appeared on behalf of their child, the Student, through their counsel, Mr. Conor O’Donnell and Ms. Kaity Tuohy. Respondent Colorado Springs School District 11 (the “District”) appeared through its counsel, Ms. Deborah Menkins, Ms. Martha Kohlstrand, and Ms. Julie Bellville. The following documentary exhibits were admitted into evidence by stipulation of the parties: Hearing Exhibits No. 1 through No. 3, No. 8 through No. 10, No. 12 through No. 20, No. 22, No. 23, No. 25, No. 27, No. 28, No. 31, and No. 32 from the Complainants’ set, and A through V, X through Z, AA, and GG from District’s set. During the course of the hearing, the following additional exhibits were offered and admitted: No. 5 through No. 7, No. 29, No. 33 through No. 35,¹ W, HH, and II. The hearing was electronically recorded and stenographically recorded by a contractor of the District.

Issue Presented

The issue to be determined at hearing was as follows: Whether, beginning in

¹ As to Hearing Exhibits No. 33 and No. 35, only pages 1 through 3 of each were admitted.

March, 2025, and dates thereafter, the District provided a free appropriate public education² to the Student by offering and implementing an Individualized Education Program (“IEP”) that addressed the Student’s unique needs.

Findings of Fact

Pursuant to stipulation of the parties, the following facts are established:

1. The Student is three years old.
2. The Student’s parents are Complainants.
3. [Mother] provided signed consent for the Student to be evaluated for special education eligibility on January 10, 2025.
4. The District originally scheduled the initial evaluation/IEP meeting for February 21, 2025, but it was rescheduled due to unsafe weather conditions.
5. The District then scheduled the initial evaluation/IEP meeting for March 4, 2025, but it was also rescheduled due to unsafe weather conditions.
6. The District then scheduled the initial evaluation/IEP meeting for March 13, 2025. Hearing Exhibit No. 20.
7. The District evaluated the Student for special education eligibility on March 13, 2025.
8. On March 13, 2025, the District determined that the Student was eligible for special education services under the disability category Developmental Delay. Hearing Exhibit No. 23
9. On March 13, 2025, the Student received an individualized education plan (“IEP”). Hearing Exhibit No. 15.
10. The 2025 IEP also included accommodations for the Student
11. On March 13, 2025, [EC Special Education Teacher], Early Childhood Special Education Teacher, emailed [Mother] a copy of the Student’s documents, including her

2 As that phrase is used in the federal Individuals with Disabilities Education Act (“IDEA”) and its Colorado counterpart, the Exceptional Childrens’ Education Act (“ECEA”).

2025 IEP, IEP Evaluation and information about the Student's placement at [Elementary School] ("[Elementary School]").

12. On March 14, 2025, [EC Special Education Teacher] emailed [Mother] an updated version of the 2025 IEP.

13. The updated IEP called for a speech-language pathologist to provide 180 minutes per month of direct speech-language services and 15 minutes of indirect speech-language services, as well as 60 minutes per week of direct special education services provided by the Early Childhood Special Educator and 15 minutes per month of indirect special education services: all of the services to be provided inside the general education classroom ("2025 IEP").

14. The Student was placed at [Elementary School], a public elementary school within the District.

15. The District placed the Student in [Preschool Teacher]'s AM class at [Elementary School], which runs from 7:50AM until 10:20AM Tuesday through Friday.

16. On Friday, March 21, 2025, Parents and the Student visited [Preschool Teacher]'s classroom.

17. March 24, 2025, to March 28, 2025, was the District's Spring Break.

18. On Wednesday, April 2, 2025, the Student attended [Elementary School] and was dropped off by both Parents.

19. [Father] arrived alone to pick up the Student

20. On Thursday, April 3, 2025 at 6:40AM, [Mother] emailed [District Staff 1] and [District Staff 2], employees in the District's Early Childhood Office, regarding her concerns about the Student's first day. Hearing Exhibit No. 29.

21. At 7:24AM, [District Staff 2] forwarded [Mother]'s email to [Director of ECE], the Director of Early Childhood Education at the District.

22. At 8:56AM, [Director of ECE] responded to [Mother]'s email, sent her Procedural Safeguards, and proposed an IEP meeting to address [Mother]'s concerns. Hearing Exhibit X.

23. At 11:24AM, [Mother] responded to [Director of ECE] and offered to speak on April 4th or April 7th .

24. On Friday, April 4, 2025 at 4:49PM, [Director of ECE] replied to [Mother] and stated that she was unable to schedule an IEP meeting for April 7th. [Director of ECE] noted that she would reach out again early next week.
25. On Saturday, April 5, 2025 at 3:36AM, [Mother] emailed District Superintendent [District Superintendent], [Elementary School]’s Principal [Principal], then-Executive Director of Special Education [Former Executive Director] and [Director of ECE], all District employees, alleging violations of the IDEA, 504, Title II and the ECEA. [Mother] also asked for the name and contact information of the District’s legal representative.
26. At 8:15AM, [Former Executive Director] responded to [Mother]’s email, proposed an IEP meeting on April 9, 2025 and identified Deborah Menkins as the District’s legal representative.
27. At 2:34PM, [Mother] emailed the same District employees and Ms. Menkins about the District’s alleged violations and stated that the “April 9, 2025 IEP meeting will be held at a neutral, professional district-controlled site, such as the District 11 Administration Building at 1115 N. El Paso Street.”
28. On Sunday, April 6, 2025 at 7:18PM, [Former Executive Director] emailed [Mother] a Notice of Meeting for an IEP meeting to be held at 1115 N. El Paso Street on Wednesday April 9th at 3pm.
29. On Wednesday, April 9, 2025 at 12:44PM, [Mother] emailed the District employees and Ms. Menkins to postpone the IEP meeting.
30. On Monday, April 21, 2025, Complainants’ counsel issued a FERPA request for the Student’s education records from the District.
31. On Thursday, April 24, 2025, the District produced the Student’s FERPA records to Complainants’ counsel.
32. The Student did not return to [Elementary School] – or any other District school – after April 2, 2025.
33. Complainants never contacted [Preschool Teacher] or the two paraprofessionals in [Preschool Teacher]’s classroom after the Student was picked up on April 2, 2025.
34. Complainants did not attempt to reschedule the IEP meeting postponed by [Mother].

Based on the evidence presented at hearing, the ALJ finds the following:

35. The Student was described by her parents as being strong-willed, clever, independent, and curious. She experiences developmental delays as a result of exposure to lead between the ages of six and twelve months. She is non-verbal and lacks impulse control. She uses some signing with American Sign Language and pointing to communicate. She struggles in areas socialization, including the ability to take turns and interpret social cues. She may act out with inappropriate behaviors.

36. [Mother] completed an online questionnaire prior to enrolling the Student in the District. Hearing Exhibit No. 2. She expressed her concerns regarding the Student's safety and ensuring a welcoming environment at school. As related to safety, [Mother] identified the Student's need for adult support to prevent her from walking out of the classroom and noted the Student's inability to advocate for herself. [Mother] was extremely concerned for the Student's social and emotional well-being.

37. [Mother] visited [Elementary School] in late, 2024. She provided the District with information about services the Student received at home up through age 3. Hearing Exhibit No. 5. The services had been provided by [Community Centered Board] based on evaluations completed by that agency when the Student was 2 years-old. Hearing Exhibits No. 6, No. 7, and No. 9. [Mother] confirmed that the evaluation results were based on input from Complainants as well as observations and assessments of the Student using appropriate tools.

38. The referenced evaluations documented the Student's delays of more than fifty percent in speech and language, of between thirty-three and fifty percent in fine motor skills, of twenty-five percent in gross motor skills, and of between thirty-three and fifty percent in cognitive skills. The Student was described as "within expectations" for socialization, but that determination was affected by her very young age. Her adaptive skills were also noted to be "within expectations" based on observations.

39. [Mother] established that the Student has since regressed in social communications, losing her prior ability to convey "hi" or "thank you." The Student's

adaptive skills have also regressed in the areas of dressing, toileting, and hygiene. [Mother] observed that this regression may have plateaued; Complainants have seen signs that the Student's adaptive skills have begun to improve.

40. The Student underwent an evaluation for speech and language in June, 2024. Hearing Exhibit No. 10. The results were based on observations, reports by Complainants, and completion of a language milestones checklist. The Student's primary mode of communication was stated to be gestures. [Mother] established that this remained the case as of the time of hearing. The evaluation determined that the Student experienced moderate delays in receptive and expressive language.

41. The District's spring 2025 evaluation confirmed the Student's delays in the areas of communication and transitions. Hearing Exhibit No. 12. In the area of receptive language, [Mother] established that the Student did not really interpret questions as requests for information; she would often just imitate the actions of the questioner. The Student's expressive language was characterized by grunts, noises, and signs; she would scream and/or stomp when frustrated, and sign "more" or "help" when she wanted to change to a new activity. When the Student became upset, she would try to advocate for herself, but often wound up crying on the floor and having an emotional meltdown. [Mother] felt concerned that these issues could make the Student vulnerable to other students in the school setting.

42. When the Student was observed in a play setting, she showed emotion with body language that might be difficult for other children to understand. She did not respond consistently to her name being called and did not pay attention to adults in the room. She was not aware of situations around her, even those that may be dangerous. The evaluation concluded that the Student's social/emotional skills were significantly below age norms.

43. Overall, the evaluation summary expressed concerns in the areas of cognition, communication, social/emotional and adaptive functioning.

44. Complainants agreed with and signed the IEP dated March 13, 2025. It identified the Student's needs consistent with the previous Finding of Fact. On page 19, it provided for continuous adult support throughout the preschool day for safety

monitoring when dysregulated or distracted, redirection, support to engage in routines and activities, including supported peer and play interactions and when peers were having a problem understanding the Student. Additionally, the Student was to receive sixty minutes per week of direct special education instruction regarding attention, memory, play, social cognition, behavioral regulation, and social interaction skills, as well as three hours per month of speech and language services. The Student's preschool placement was specified at [Elementary School] for ten hours per week "at least." The Student's enrollment in the District occurred on March 17, 2025. Hearing Exhibit No. 1.

45. Prior to beginning preschool in the District, the Student had participated in limited child care at the local [Community Organization]. [Father] stated that this was done mostly to provide socialization opportunities for her. Otherwise, she had only been with family. [Mother] acknowledged that the Student had a history of meltdowns that typically lasted approximately fifteen minutes. Complainants allowed the Student to control some aspects of her day "within reason" according to her mother. [Father] testified that he provided the Student with the "illusion of choice" among things he wanted her to do.

46. [Preschool Teacher] testified in her capacity of special needs preschool teacher for the District. The Student was to attend her class at [Elementary School]. She has a child with disabilities and loves being involved in the preschool setting. In the Student's a.m. class, four children out of the fourteen total had IEPs, and [Preschool Teacher] was supported by two paraprofessional aides. The aides helped the children with toileting, emotional needs, and activities planned out by the teacher.

47. [Preschool Teacher] established that a typical day in her preschool started with she and the aides welcoming the students and calming them down. There was a period of play time, followed by a circle, breakfast, structured play session and a closing circle.

48. [Preschool Teacher] was excited to have the Student in her class. Complainants had visited [Elementary School] with the Student on March 21, 2025. [Preschool Teacher] showed them around the classroom and described the visit as "good." She described the Student as a "busy girl." [Mother] was reassured that [Preschool

Teacher] indicated that having the Student in the class would be no problem. On April 1, 2025, [Preschool Teacher] called Complainants to discuss what would happen on the Student's first day. There was no answer and so she left a message. Complainants did not call her back or recall receiving the message.

49. When Complainants dropped off the Student on April 2, 2025, she was inquisitive but somewhat reluctant to leave her parents. [Father] signed her in on a sheet, after which the parents of all children were encouraged to just "kiss and go." She was not crying at the time. [Preschool Teacher] established that quick goodbyes tend to benefit the children more than extended ones. Soon afterwards, the Student saw another student upset and began crying herself.

50. [Mother] talked to another parent in the parking lot who told her that pick-up time was 10:30 a.m. Actually, pick-up time was 10:20 a.m.

51. [Preschool Teacher] established that it is not at all unusual for a child to be upset on the first day of preschool. She observed the Student throughout the morning and described her as "off and on" emotionally. She tried to go to the door three times and threw herself on the floor a couple of times. When the children came in from playing outside, the Student sat with one of the aides to eat. [Teacher's Aide 1] helped the Student use a spoon and then held her for the beginning of circle time. The Student then sat in [Preschool Teacher]'s lap. Although she had a couple of small meltdowns, the Student participated in dramatic play and snack time without being upset. [Preschool Teacher] stated that the Student received more attention than other children that day because she was new and trying to adjust to the setting.

52 [Teacher's Aide 1] established that the morning preschool session was made up mostly of three year-olds. She described the daily schedule in slightly more detail and recalled meeting [Father] prior to the Student's first day. She was aware of the Student's IEP, but was not responsible for providing any direct services to her. [Teacher's Aide 1] had no concerns regarding the Student's experience on her first day. She recalled helping the Student with cereal, with washing hands, and offering toys to her. She and the other aide, [Teacher's Aide 2] offered to hold the Student on their laps. The Student was not upset during breakfast, during the dramatic play time, and when [Teacher's

Aide 1] was helping her with ink stamps. Mostly, the adults allowed the Student to explore the classroom and engage in preferred activities as it was her first day. After the other children left and the Student was the last in the classroom, [Teacher's Aide 1] observed her sobbing a little and so held her in her arms until [Father] arrived. [Teacher's Aide 2] confirmed that she and [Teacher's Aide 1] attempted to understand the Student's needs using ASL signing and interpreting her gestures. She was not concerned at all about the Student's ability to benefit from preschool. The aides ensured that the Student was not alone during the morning and [Teacher's Aide 2] helped to facilitate play with another child. The Student was emotionally okay during parts of the day, including table time with [Teacher's Aide 2] in addition to those times mentioned above.

53. After 10:20 a.m., [Father] received a call from [Elementary School] that the Student was waiting to be picked up. All other children had been picked up and were gone. When he arrived at the school approximately five minutes later, he saw the Student with puffy eyes, tears on her face, and a runny nose. He was flustered himself about being late to pick her up. [Preschool Teacher] told him that the Student had had a rough day, crying and screaming for much of the time. She also stated that the Student could work on things at home that would help her at school, such as sitting at a desk and eating with utensils. He heard her say, "I think we need to go down to one hour a day going forward." [Preschool Teacher] recalled telling [Father] that some other children attended for shorter days until they were used to preschool. She testified that she did not indicate that the Student was not welcome in her class or that she would require the Student to go down to one hour. [Preschool Teacher] felt that the Student would certainly benefit from more than one hour of preschool.

54. Once they were together at home, [Father] said that the Student took most of an hour to calm down. Complainants were upset and felt that their fears about the Student attending school had come true. Although [Father] agreed with the IEP, he was unsure if it had been implemented on the first day. He felt that [Preschool Teacher] had criticized his parenting. He described the Student as traumatized and did not think she would be able to go back to school.

55. The Student did not attend school on April 3, 2025, or any day thereafter. [Mother] sent an email on April 3, communicating that she felt the preschool was an unsafe environment for the Student and that Complainants felt that the teacher expressed “disparaging things” about the child. Hearing Exhibit No. 29. Complainants believed that [Preschool Teacher] had unilaterally altered the placement specified in the IEP by suggesting a shorter class schedule to [Father].

56. Complainants did not speak to [Preschool Teacher] after April 2, 2025. [Preschool Teacher] attempted to call them on April 3 and left another message.

57. In one of her April 5, 2025 emails to the District, [Mother] maintained that [Preschool Teacher] had stated that the Student would not be able to remain past one hour per day in the future. [Mother] believed that the District had violated the Student’s IEP.

58. Although District personnel responded to [Mother]’s emails on the same day, including weekend days, and had proposed meetings as early as April 9, [Mother] felt that the District showed no sense of urgency about the Student’s issues on the first day of preschool.

59. On April 9, 2025, just over two hours before the meeting, [Mother] sent an email cancelling it. Hearing Exhibit No. 33. She accused the District of engaging in “psychological cruelty” and “gaslighting” in its responses. She also signaled that litigation was inevitable regarding the Student’s special education rights. [Mother] specifically advised the District that the IEP meeting “will be rescheduled at a time of my choosing” with 48 hours notice to the District.

60. The District offered to implement the IEP at [Elementary School] or another setting within the District.³

61. In addition to describing the Student’s experience on April 2, 2025, and her interactions with [Father], [Preschool Teacher] established that she was the person responsible for providing the sixty minutes per week of direct services to the Student specified in the IEP. She stated unequivocally that she did not have authority to modify the Student’s IEP. In suggesting that the Student might benefit from a shorter schedule

for a brief time while she became accustomed to the preschool environment, [Preschool Teacher] sought to make the experience less traumatizing for her. [Preschool Teacher] discussed with the aides what might be done to improve the Student's transition into preschool and did not seek to exclude her from the class. [Preschool Teacher] testified that she was willing and able to implement the IEP and merely sought to engage with the Student's parents to arrive at a cooperative solution during the adjustment period.

62. [Teacher's Aide 1] established that she was nearby when [Preschool Teacher] and [Father] were talking at the end of school on April 2. She heard no disparaging language and observed no indication that either of them was upset at what the other was saying. In discussions later, [Preschool Teacher] said nothing about excluding the Student or altering the hours listed in the IEP. [Teacher's Aide 1] and [Teacher's Aide 2] both established that the Student was not emotionally dysregulated all day and that neither of them felt that she could not, in time, adjust to the new environment. They understood the Student's needs and were prepared to meet them.

63. Complainants introduced two documents: a preschool parent agreement and a District handbook. Hearing Exhibits No. 27 and No. 28. Complainants testified that they did not receive the documents prior to the Student's first day and that they did not sign to acknowledge their understanding of them. [Preschool Teacher] testified that all parents should have received the documents.

64. The District presented the testimony of [Director of ECE], its Director of Early Childhood Education. In that capacity, she oversees the preschool program, including the curriculum and operational details. [Director of ECE] expressed a preference for a relationship with parents that resembles a partnership. She noted that preschool, and especially the first day, is a "big deal" for children as their first experience outside of home. She endorsed the benefits of the "kiss and go" drop-off as reinforcing to the children that their parents are "okay" with the situation. While children can have issues, she believes that there are solutions to be found.

65. [Director of ECE] read [Mother]'s email correspondence as highlighting conflict over partnership. [Mother] characterized the Student's first day as a violation of her

3 This fact was stipulated by counsel in lieu of admitting additional pages of Hearing Exhibit No. 33.

special education rights, sought a point of contact for the family's lawyer, and signaled that litigation would be forthcoming. [Director of ECE] responded the same day by ensuring the District's commitment to the Student's educational experience and offering to set up a meeting. She provided Complainants with their "procedural safeguards" under special education law and agreed to explore various placement options. [Director of ECE] believed that a meeting would be more valuable than a series of emails. In a meeting, the relationship could be strengthened and multiple persons could be involved to discover a solution to any identified problem with fewer opportunities to be misunderstood.

66. [Director of ECE] was unable to get all participants in the meeting to confirm availability during the same week as the Student's first day. She proposed a day during the following week and agreed to convene the meeting somewhere other than at [Elementary School].

67. [Director of ECE] reiterated that classroom teachers are not authorized to alter the service delivery or placement specified in an IEP. If the family believes that temporarily shortening a child's day may be beneficial, then the District would be open to discussing it. Such a modification, if agreeable to the family and the District, may not require altering the IEP if it is minor and short in duration.

68. A family handbook, given to all parents by the District upon enrollment, described a problem-solving process. Hearing Exhibit II. Step one of the process involves talking with the involved teacher. Step two of the process involves talking with the school principal or the Director of Early Childhood Education.

69. On cross-examination, [Director of ECE] established that she is familiar with the IDEA. The act ensures that students between the ages of three and twenty-one years are provided with a free appropriate public education. Before any change can be made to a student's IEP, a district must provide prior written notice.

70. [Director of ECE] acknowledged that the notice of meeting on April 9, 2025, did not indicate the specific items that would be discussed. Hearing Exhibit No. 25. She noted, however, that she had previously told [Mother] that she wanted to ensure that all of the Student's needs would be met. After [Mother] cancelled the meeting, [Director of

ECE] did not attempt to reset it because [Mother] stated that she would be the one to unilaterally schedule it. Hearing Exhibit Z.

71. The District presented the testimony of [Former Executive Director] who was Executive Director for Special Education during the 2024-25 school year. In that role, [Former Executive Director] oversaw the District's compliance for approximately three thousand students. [Former Executive Director] received forwarded email communications involving [Mother] and District personnel. Hearing Exhibit W. Based on [Mother]'s mention of her "family lawyer," [Former Executive Director] advised [Director of ECE] to provide the list of procedural safeguards to the family.

72. [Former Executive Director] responded within five hours to [Mother]'s email sent on Saturday, April 5, because she could tell this was a serious matter. [Mother] did not appear to be interested in informal resolution by virtue of her statement about the inevitability of litigation. Nevertheless, [Former Executive Director] scheduled a meeting for April 9. When [Mother] replied with an email setting forth her "final, formal" demands, [Former Executive Director] saw this as more evidence that Complainants were seeking litigation. As with [Director of ECE], [Former Executive Director] did not initiate any further IEP meetings because [Mother] had indicated that she, alone, would do that.

73. As noted above, Complainants did not return the Student to attend preschool in the District based on their assessment that it was an unsafe environment for her. Subsequently, the Student received a medical diagnosis of autism spectrum disorder. She has enrolled in a behavioral therapy program called "Community Care" and, according to [Father], is "doing great." The only evidence presented of educational harm suffered by the Student was that she was not comfortable being left by her parents in the [Community Organization] setting for approximately six weeks after April 2, 2025.

Conclusions of Law

The purpose of the IDEA is to ensure that all children with disabilities have available to them a free appropriate public education ("FAPE") that provides special education and

related services designed to meet their unique needs. 20 U.S.C. § 1400(d)(1)(A). Section 1401(3) defines a “child with a disability” as meaning “a child— (i) with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (ii) who, by reason thereof, needs special education and related services.” A school district satisfies the requirement for a FAPE when, through the IEP, it provides a disabled student with a “basic floor of opportunity” that consists of access to specialized instruction and related services that are individually designed to provide educational benefit to the student. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 201 (1982). To meet its obligations under the IDEA, the school district “must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Andrew F. v. Douglas County School District RE-1*, 580 U.S. 386; 137 S.Ct. 988 (2017). States are empowered to implement statutory and regulatory programs to further the goals of the federal law. *Id.* at § 1407. Colorado has adopted the ECEA as well as rules for its administration here. Article 20 of Title 22, C.R.S., and 1 *Code of Colorado Regulations* (“CCR”) 301-8, respectively. The IDEA is also implemented through regulations found at 34 Code of Federal Regulations § 300, *et seq.*

Burden of Proof

Although the IDEA does not explicitly assign the burden of proof, *Schaffer v. Weast*, 546 U.S. 49, 58 (2005) places the burden of persuasion “where it usually falls, upon the party seeking relief.” *See also Thompson R2-J Sch. Dist. v. Luke P.*, 540 F.3d 1143, 1148 (10th Cir. 2008) (stating that “[t]he burden of proof . . . rests with the party claiming a deficiency in the school district’s efforts”). Complainants therefore bear the burden of proving by a preponderance of the evidence that the District violated its obligations under the IDEA.

Discussion

The evidence at hearing established that the Student was enrolled within the District on March 17, 2025, and began attending preschool on April 2. The District had a legal duty to comply with the IDEA and ECEA regarding the Student's identification as a child with a disability, to develop an IEP that would permit her to receive appropriate benefit from her education in light of her unique needs, and to implement the IEP safely and effectively.

Complainants expressed no disagreement with the results of the District's evaluation of the Student and agreed that the services and supports identified in the March, 2025 IEP were appropriate for her. Thus, there is no dispute here that the development of the IEP and the contents of it were in compliance with the law and reasonably calculated to confer educational benefit on the Student with due consideration for her unique needs.

What remains to be determined is whether the District appropriately implemented the IEP on April 2, 2025, whether it stood ready and able to implement it on dates after that, and whether the District's implementation resulted in any educational harm. For the reasons stated below, the ALJ finds and concludes that the District did implement the IEP in compliance with the law and that the Student did not suffer harm as a result of the District's actions.

The first consideration in this analysis is, of course, the nature of the Student's disability and the unique educational needs that derive from it. The record was clear that the Student is an energetic and strong-willed three year-old with developmental delays that affect a number of functional areas. Moreover, she had never been in a preschool setting before April 2, 2025. Although her medical diagnosis of autism spectrum disorder came later, at the time of enrollment she was known to struggle with transitions, social interactions, and acceptance of non-preferred activities. She was also known to have significant impairments with regard to receptive and expressive communication. These factors and her age affected the extent to which she (1) was emotionally comfortable with the preschool environment and separation from her parents, (2) could understand what others were telling her about preschool, and (3) make known what she thought she needed on her first day in preschool. [Director of ECE], [Preschool Teacher], [Teacher's Aide 1], and [Teacher's Aide 2] all acknowledged that emotional upset was common on any child's

first day of preschool. On April 2, 2025, the Student was transitioning to a new environment in a new physical location, filled with unknown adults and children presenting novel social interactions all without the presence of her parents. It is therefore hardly surprising that she was upset and crying during parts of her first day. [Preschool Teacher], [Teacher's Aide 1], and [Teacher's Aide 2] all established that they were attentive to the Student and did their best to interpret her cues about her needs. They sought to make her feel as comfortable as possible to ease the obviously difficult transition. It is worth noting that this evidence was uncontroverted as Complainants were not present to witness how the day unfolded.

[Preschool Teacher] and the paraprofessional aides established that the Student received the adult supervision called for in the IEP. There was no evidence that she was unsafe or unsupported in her interactions with peers. To the contrary, [Preschool Teacher] testified that the Student was kept from egressing the classroom, and all three adults helped her with dramatic and artistic play activities, facilitated limited social interactions with peers, and comforted her when she was emotionally upset. [Preschool Teacher] established that she was willing and able to provide the direct supports called for in the IEP to allow the Student to receive meaningful educational benefit. As for the speech/language services called for on a monthly basis, the Student did not attend school long enough to access those.

When [Father] arrived to pick up the Student after preschool, she was the last one there. All of the other children had already left. This cannot have helped the situation with the Student's emotional state. [Teacher's Aide 2] and [Teacher's Aide 1] were holding her and attempting to console her, but she was nonetheless sad and showing signs that she was. This is not what any parent wants to see when he or she picks up a child from an activity. [Father] felt flustered by the situation and briefly interacted with [Preschool Teacher]. Although the testimony of those two persons did not align, the ALJ finds that the claim that [Preschool Teacher] told [Father] that the Student was not welcome, or could only return for part of the preschool day going forward is not plausible. Her testimony was more convincing that she advised that some kids do better with a shorter day during their initial transition. That did not amount to a unilateral amendment of the Student's IEP or an indication that she and the District were unwilling to implement it. It was merely a

suggestion about how to make things easier as she adjusted.

The ALJ accepts and agrees with the characterization of [Director of ECE] that the preferred dynamic of parents and educators is a partnership working in the best interest of children. Not all experiences at school are perfect, but if adults take a cooperative approach, then the cause of any problems is more readily understood and corrective measures more likely to be effective. In this case, such an approach informs two different aspects of the Student's experience and the responses by the District and Complainants. First, that [Preschool Teacher] likely indicated to [Father] skills that could help their child succeed in preschool need not, as Complainants did, be interpreted as disparaging and disrespectful. The record did not indicate that Complainants had ever sent a child to school before. Thus, to be told what might benefit the Student, for whom they sincerely wanted to gain the benefits of preschool socialization, could have been taken positively from a person as experienced as [Preschool Teacher]. It was most certainly not taken in that way. Second, although [Preschool Teacher] sought to contact the parents on April 3 to talk about the Student's first day, Complainants appeared to not be interested in any such dialog. Rather, they chose to take the extremely brief interaction with [Preschool Teacher] on April 2, 2025, when both [Father] and the Student were upset, as the only "information" upon which they would base decisions about next steps. When [Director of ECE] and [Former Executive Director] attempted to schedule the meeting requested by [Mother] the next week, [Mother] abruptly cancelled the meeting and indicated no such interaction would occur unless she initiated it. That step, along with the increasingly inflammatory language about purported malice toward the Student and inevitable litigation precluded any meaningful effort to fix what had occurred in the course of less than three hours on the Student's first-ever day of preschool. The record here evidenced the District's willingness to provide the services and supports set forth in the IEP. Complainants chose to withdraw the Student based on what the ALJ concludes were unfounded concerns that she was unsafe at school.

The fact that the Student was reluctant to attend the [Community Organization] daycare after April 2, 2025, did not establish that the District caused emotional harm in implementing the IEP. There was no evidence about the details of the [Community

Organization] program and what factors may have contributed to the Student's feelings about it after her preschool experience. The record demonstrated that she received near constant adult supervision and support while at school on April 2. No evidence showed that anything similar was available at the [Community Organization]. Nor was any information offered about how long the Student was left at the [Community Organization] on any given day or whether she was aware of her parents being nearby. To the extent that Complainants claim that educational harm occurred because the Student could not return to preschool to receive the services and supports set forth in the IEP, the ALJ finds and concludes that the cause of that is the parents' choice to withdraw her after less than three hours of preschool and refuse to engage the District in discussions that may have improved on her experience and allowed her to benefit from the IEP.

To summarize, the District's IEP was reasonably calculated to confer meaningful educational benefit on the Student given her unique needs. The District appropriately implemented the IEP on April 2, 2025, and stood ready to do on the days and weeks afterwards. The choice to withdraw the Student from the District was made by the Complainants in spite of these findings. To the extent that she incurred any educational harm as a result, it was not caused by any action or inaction on the part of the District.

Decision

The ALJ concludes that the Complainants did not meet their burden of establishing that the District is responsible for a deprivation of FAPE to the Student in the development and implementation of the IEP in March and April, 2025. The IEP was developed and implemented to address the unique educational needs arising from the Student's disabilities, and afford her the benefits of special education. Accordingly, Complainants are not entitled to any relief on the issues raised by their Due Process Complaint herein.

This Decision is the final decision except that any party has the right to bring a civil

action in an appropriate court of law, either federal or state, pursuant to 34 C.F.R. 300.516.

DONE AND SIGNED this 4th day of December, 2025.



KEITH J. KIRCHUBEL
Administrative Law Judge

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