

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

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**State Complaint SC2025-646**  
**Boulder Valley School District**

**DECISION**

**INTRODUCTION**

On December 5, 2025, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> and Student filed a state complaint (“Complaint”) against the Boulder Valley School District (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified two allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

On December 12, 2025, upon agreement of the parties, the CDE extended the 60-day investigation timeline to allow the parties to participate in mediation consistent with 34 C.F.R. § 300.152(b)(1). Mediation resulted in impasse and the CDE resumed the investigation on January 5, 2026.

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 not more than one year prior to the date the Complaint was properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring on or after December 5, 2024. Information prior to December 5, 2024 may be considered to fully investigate all allegations.

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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.

## 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:

1. District did not develop, review, and revise an Individualized Education Program (“IEP”) from December 5, 2024 to November 2025 that:
  - a. Considered the academic, developmental, and functional needs of Student—specifically Student’s executive functioning needs—as required by 34 C.F.R. § 300.324(a)(1)(iv);
  - b. Included measurable annual goals designed to meet Student’s needs and enable Student to be involved in and make progress in the general education curriculum, as required by 34 C.F.R. § 300.320(a)(2);
  - c. Included a statement of the special education and related services—specifically identifying who would provide services and where services would be provided—to enable Student to advance appropriately toward attaining annual goals and to make progress in the general education curriculum, as required by 34 C.F.R. § 300.320(a)(4); and
  - d. Addressed any lack of expected progress toward annual IEP goals and in the general education curriculum, as required by 34 C.F.R. § 300.324(b)(1)(ii)(A).
2. District did not implement Student’s IEP from December 5, 2024 to November 2025 because it:
  - a. Did not make the IEP accessible to teachers or service providers responsible for its implementation, as required by 34 C.F.R. § 300.323(d);
  - b. Did not provide the direct specialized instruction listed in the IEP, as required by 34 C.F.R. § 300.323(c); and
  - c. Did not provide certain accommodations listed in the IEP—specifically checks for understanding, pre-teaching, re-teaching, and encouragement of executive functioning skills by general education teachers—as required by 34 C.F.R. § 300.323(c).

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<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.

## **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 18 years old and is on track to graduate from a district high school (“School”) in May 2026. *Interviews with Student and Parents; Response*, p. 2. Student loves driving and working on cars, and he plans to start a career in automotive repair after graduating. *Interview with Student*. Student is bright, values relationships, and thinks deeply about the world. *Interviews with Parents, Student, Special Education Case Manager (“Case Manager”), 11th Grade Science Teacher (“Science Teacher”), 11th Grade Math Teacher (“Math Teacher”), and 12th Grade English Teacher (“English Teacher”).*
2. This investigation involves the development and implementation of three IEPs between December 5, 2024 and November 2025: an IEP dated February 29, 2024 (“February 2024 IEP”), an IEP dated February 25, 2025 (“February 2025 IEP”), and an IEP dated August 19, 2025 (“August 2025 IEP”). *See Exhibit A*, pp. 1-88; *Response*, pp. 2-4.

### **B. District’s Policies, Practices, and Procedures**

3. District maintains Board Policy IGBA, “Programs for Students with Disabilities (Special Education),” which recognizes that any “student of the [District] identified as a child with disabilities who is between the ages of three and 21 and who has not been awarded a regular high school diploma has the right to a free appropriate public education.” *Exhibit K*, pp. 1-2.
4. District also maintains Board Policy JB, “Equal Educational Opportunities,” which provides that District shall regularly monitor curriculum and materials, training, student access, support resources, evaluation instruments, and discipline to ensure compliance with federal and state laws. *Id.* at pp. 9-10.
5. District provides continual access to asynchronous trainings and offers in-person trainings twice per year for all District special education staff. *Interview with District Director of Special Education for the Southwest Network (“Director”).* District also makes CDE guidance available to staff for reference and encourages adherence to those guidelines. *Id.*
6. District has a dedicated team of specialists that work closely with school-based special education teams to answer questions within 24 hours. *Id.* This team of specialists is comprised of teachers on special assignment and includes two school psychologists, two licensed special education teachers, and a behavior analyst/licensed social worker. *Id.*

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

7. Finally, District retains close oversight over IEP development, such as by monitoring deadlines through its record department and having directors attend IEP meetings when possible. *Id.*

### C. February 2024 IEP

8. Student's February 2024 IEP was in effect for about three months—December 5, 2024 to February 26, 2025—of the timeframe relevant to this investigation. *Exhibit A*, pp. 20, 47. Student qualifies for special education under the disability category of Other Health Impairment due to Attention-Deficit/Hyperactivity Disorder (“ADHD”) and anxiety. *Id.* at p. 1.
9. This IEP documents Student's strengths as reported by his general education teachers, Case Manager, and School Psychologist: he grasps concepts easily, makes valuable contributions, and shows strong interpersonal skills. *Id.* at p. 3.
10. The IEP's present levels of performance section describes Student's good health, passing grades, strong attendance, excellent performance in general education classes as reported by teachers, usefulness of accommodations, recommendations for additional accommodations, social-emotional progress, and 91st-percentile standardized test score. *Id.* at pp. 3-8. Student made progress toward all IEP goals from his previous IEP. *Id.* at pp. 8-9.
11. The IEP's student needs and impact of disability section identifies “self-advocacy” and “executive functioning skills to support task organization, task completion, and time management” as areas of need. *Id.* at p. 10. Student's “anxiety and ADHD continue to manifest in difficulties with engaging in his classes and self-advocacy, which affect his involvement and progress in the general curriculum.” *Id.* at p. 9. As such, Student benefits from specialized instruction in a small group or one-to-one setting and requires specialized instruction and accommodations to be successful in the classroom setting. *Id.* at p. 10.
12. The IEP contains a post-secondary transition plan, which projects that Student will earn a standard high school diploma by March 2026 and outlines the transition services necessary for Student to achieve his post-secondary goals. *Id.* at pp. 11-12.
13. The IEP contains three annual goals: two in self-determination and one in social-emotional wellness. *Id.* at pp. 13-15.
14. The IEP lists 17 accommodations and identifies the following special education services:
  - Specialized Instruction: 235 direct and 30 indirect service minutes to be delivered weekly by a special education teacher outside of the general education classroom.
  - Psychologist/Social Work Services: 30 direct service minutes to be delivered semesterly and 15 indirect service minutes to be delivered monthly by a school psychologist or social worker outside of the general education classroom.

*Id.* at pp. 15, 18.

15. The service delivery statement includes an overview of the supports provided by different “IEP implementers”—such as general education teachers, special education teachers, and school psychologists—per District’s “integrated service delivery model,” which emphasizes collaboration between all IEP implementers to consult, model, re-teach, and conduct small group instruction to support IEP goals. *Id.* at p. 18. This preface is standard for all District IEPs. *Interview with Director.*
16. District’s standard preface notes that “[s]pecialists within specialized areas may include one or more of the following: Classroom teacher, instructional paraeducator, Special Education Teacher, and School Psychologist/Social Worker.” *Exhibit A*, p. 18.
17. Specific to Student, this section states he “will receive direct instruction in social/emotional skill building in order to [decrease] anxiety, impulsivity, and [build] emotion regulation skills.” *Id.*
18. Parents are concerned that this standard preface, which is incorporated in all of Student’s IEPs, is confusing as written, and therefore that services are undeliverable, because District’s integrated services model “can easily be confused [because] a teacher/educator/worker could expect another group to be implementing the framework.” *Reply*, p. 13.
19. Under this section, the “Special Education Teacher” “will oversee IEP implementation across curriculum and work collaboratively with the general education teachers.” *Exhibit A*, p. 18. In this description, this IEP and Student’s February 2025 IEP both erroneously use another student’s name. *Id.* at pp. 18, 45. In addition to using the incorrect name, this section also erroneously refers to collaborating with a “speech pathologist” and collecting data for math and reading. *Id.* Student does not receive speech language services nor do his goals involve math or reading. *Id.* at pp. 1-88; *Reply*, p. 9.
20. Additionally, this section details that “School Psychologist/Social Worker” will provide “direct instruction in social/emotional skill building in order to decrease anxiety, impulsivity, and improve emotion regulation skills.” *Id.* at p. 18.
21. Finally, Student was in general education at least 80 percent of the time. *Id.* at p. 19.

#### **D. Progress on February 2024 IEP Goals**

22. Student’s first self-determination goal stated: “To be successful in a post-secondary setting, one needs to be able to develop coping strategies to start and finish tasks. Therefore [by] March 2025, when given a check in [by] an adult [during] a written task, [Student] will be able to identify a coping strategy to initiate a task with an adult prompt in 4 out of 5 trials. Present examples of coping skills are writing a clarifying [question] when worrying about the task, taking a break, writing an email to his teacher for support, breaking the assignment down into chunks.” *Id.* at pp. 13-14. The baseline was four out of five opportunities, as measured by teacher report/observation. *Id.* at p. 13.

23. In December 2024, the status of this goal was “progress made,” where “Student is currently working on this goal and has made good progress. He has especially had to work on this goal due to the impact of his current medical [condition of hip dysplasia]. [He] is able to use and identify coping strategies and this also is a challenge when the pain he is trying to manage increases.” *Exhibit F*, p. 1.
24. Student’s second self-determination goal stated: “Successful college students are able to keep their work organized in order to maintain their success in college. Therefore in order to be a successful college student, by February 2025, [Student] will have kept his work organized by using a Zip file in 3 out of 5 organizational checks.” *Exhibit A*, pp. 14-15. The baseline was zero out of five opportunities, as measured by organization checks. *Id.* at p. 14.
25. In December 2024, the status was “progress made,” where “[b]ased on teacher observations, [Student] has done a better job keeping track of his work, however, more consistency with his [Z]ip file is desired in order to make progress on this goal. [Student] has used his Zip file 2 out of 5 opportunities this semester.” *Exhibit F*, p. 3.
26. Student’s social-emotional wellness goal stated: “To be successful in a post-secondary setting, one needs to be able to self-regulate when stressful situations arise. Therefore by March 2025, [Student] will learn to choose from a variety of techniques to de-escalate and calm himself so that he can control his emotions within the classroom and focus on the task at[-]hand when feeling overwhelmed or anxious, as measured by teacher observation and the number of times he misses class.” *Exhibit A*, p. 14. The baseline was four out of five opportunities, as measured by teacher report/observation. *Id.*
27. In December 2024, the status was “progress made,” where “[Student] has not left class when feeling overwhelmed. Therefore while in class he has been able to stay regulated and in control of his emotions.” *Exhibit F*, pp. 2-3.

**E. Executive Functioning Needs and Concerns: December 2024 to February 2025**

28. In early December 2024, Parents were concerned about Student’s number of missing assignments. *Exhibit L*, p. 54. Parents wanted to avoid “last minute rushes” to complete assignments at the end of the semester. *Id.*; *Interview with Parents*.
29. Because of Student’s executive functioning challenges, he had difficulty keeping track of deadlines and completing assignments—especially toward the end of semesters. *Interview with Parents, Student, and Case Manager*.
30. Student had 18 missing assignments in total as of December 11, 2024. *Id.* With these missing assignments, Student was earning a B in English; a C in Math; an A in Culinary Essentials; an F in Earth Space Geography; a B in Personal Finance; and a D in US History. *Exhibit L*, pp. 65-67.
31. Parents asked Case Manager to coordinate with teachers to ensure that Student’s grades accurately reflected the missing assignments he had turned in and that he was able to turn

in late assignments. *Id.* at pp. 65-67. Often, Student had turned in missing assignments but teachers had not updated their gradebooks to reflect this assignment completion. *Id.*

32. In addition to Parents supporting Student at home regarding work completion, Case Manager worked with Student and general education teachers to support Student in completing assignments at School. *Id.* at pp. 58-85. Case Manager prioritized completion of important substantive assignments, such as summative assignments, to emphasize learning over a 100-percent assignment completion rate. *Interview with Case Manager; see, e.g., Exhibit L, p. 73.*
33. Student ended the semester with the same grades as listed above (including an A in Learning Lab) but improved to a C in Earth Space Geography and US History. *Exhibit E, p. 15.*

#### **F. February 2025 IEP**

34. On February 25, 2025, Student's IEP team convened to consider the results of a February 2025 reevaluation. *See Exhibit H, pp. 1-14; Exhibit A, p. 22; Response, p. 3.* This meeting resulted in the February 2025 IEP. *See Exhibit A, pp. 22-48.*

#### **Present Levels of Academic Achievement and Functional Performance**

35. The section includes a detailed "Review of Records" section, with summaries of prior special education evaluations and a mental-health risk review, as well as a summary of and recommendations from a December 2024 private neuropsychological evaluation report ("Private 2024 Evaluation"). *Id.* at pp. 25-26; *see Exhibit I, pp. 1-14.*
36. This section outlines Student's grades at the semester mark (December 2024) and as of February 10, 2025: Language Arts (he received a B and was earning a C); Algebra 2 (he received a C and was earning a B); Culinary, a one-semester course, (he received an A); Personal Finance, a one-semester course (he received a B); US History (he received a C and was earning a C); Earth Space Geography (he received a C and was earning an F); and Learning Lab (he received an A and was earning an A). *Exhibit A, pp. 26-27.*
37. This section incorporates results from a Conners-4 Short Scales assessment conducted as part of the reevaluation. *Id.* at pp. 28-32. This assessment measures whether a student has ADHD and can be used in conjunction with other data to determine the educational impact of ADHD. *Id.* at p. 28. Assessment raters included Parents, Student, Math Teacher, Science Teacher, and US History teacher ("History Teacher"). *Id.* at p. 29. The assessment indicated elevated scores for inattention, executive dysfunction, and hyperactivity. *Id.* at pp. 28-32.
38. This section documents feedback from Student's general education teachers, provided through a questionnaire, and results of a classroom observation conducted by School Psychologist. *Id.* at pp. 33-34. Student excelled with communication and interpersonal skills but struggled with distractibility and assignment completion. *Id.* at pp. 33-34.

### Parent/Student Input

39. As of February 2025, “Parents are pleased with [Student’s] progress. He is doing a great job overcoming some of his obstacles. [Parent] is concerned about teachers inputting grades for missing assignments that have been impacting his end of year grades.” *Id.* at p. 38.

### Annual Goals

40. This IEP kept the same two self-determination goals from the February 2024 IEP, but removed the social/emotional goal given he achieved that goal. *Id.* at pp. 13-15, 41-42; *Response*, p. 3.

41. Parents are concerned that this IEP kept the same goals. *Interview with Parents; Reply*, p. 4. It is permissible for an IEP team to maintain the same goals where a student has not yet shown mastery but is still making progress, especially if the team otherwise adjusts the IEP, such as increasing services, to encourage progress. *Interview with CDE Specialist*.

### Accommodations

42. This IEP includes 22 accommodations. *Exhibit A*, pp. 15, 42-43. Existing accommodations addressed most recommendations from the Private December 2024 Evaluation, such as checks for understanding, preferential seating, breaks, extra time, shortened assignments, organization support, and providing repeated directions. *Id.*; *see Exhibit I*, pp. 7-9.

43. The IEP team also developed five new accommodations based on recommendations from the Private December 2024 Evaluation and given Student’s diagnosis of hip dysplasia: “[a]llow [Student] to take tests in a quiet location;” “[e]ncourage [Student] to organize his tasks and assist when he needs help;” and, if Student “is experiencing significant pain, allow him to manage it by moving around or going to the health room to rest” or provide “flexible scheduling around assignments and tests.” *Exhibit A*, p. 43; *see Exhibit I*, pp. 7-9.

### Service Delivery Statement

44. This IEP made one change to Student’s service minutes: he was to receive 90 minutes monthly, rather than 30, for indirect specialized instruction provided by a special education teacher outside of the general education classroom. *Exhibit A*, pp. 18, 45.

45. Student’s placement remained unchanged from the February 2024 IEP. *Id.* at p. 46.

### **G. Progress on February 2025 IEP Goals**

46. Student’s status on his first self-determination goal—using coping strategies to complete written tasks—remained “progress made” as of May 2025. *Exhibit F*, pp. 1, 3.

47. Case Manager reported that Student “is able to describe a coping strategy to get himself back on task” when he is feeling emotionally regulated. *Id.* If he is struggling to complete

assignments, “he often reports that he’s made a plan and will execute it at home.” *Id.* Overall, “[Student] will continue to receive support on this goal so he can more quickly and with increasing independence recognize when he needs to employ a coping strategy to start and finish a task. At this point, [Student] can identify a strategy 2 of 5 trials.” *Id.*

48. Student’s status on his second self-determination goal—using a Zip file to organize—changed from “progress made” to “insufficient progress made” as of May 2025. *Id.* at pp. 2-3.
49. Case Manager reported that “[Student] has not been using his Zip file. He used the Zip [f]ile at the beginning of the spring semester and then regressed in its use. He has used the Zip file 1 out of 5 organization checks.” *Id.* at p. 3.

#### **H. Executive Functioning Needs and Concerns: Spring 2025**

50. Student continued to struggle with assignment completion during the Spring 2025 semester, and his chronic hip pain exacerbated his struggles with executive functioning and anxiety. *Interviews with Parents, Student, Case Manager, Science Teacher, and Math Teacher; see, e.g., Exhibit L, p. 283.*
51. Like at the end of the Fall 2024 semester, Parents coordinated with Case Manager to support Student in completing outstanding missing assignments. *Exhibit L, pp. 272-276, 284-285, 303.*
52. While Student consistently struggled to complete missing assignments at the end of most semesters, his work pileup was extreme in May 2025 compared to other semesters: at one point he had accumulated 26 missing assignments. *Id.* at p. 372; *Interview with Parents and Student.*
53. With support from Parents and Case Manager, Student ultimately completed 32 missing assignments in May 2025. *Exhibit L, p. 404; Exhibit 2, p. 8; Interviews with Parents, Student, and Case Manager.* He did not complete six other outstanding assignments. *Exhibit 2, p. 8.*
54. Student ended the Spring 2025 semester with the following grades: B in English; C in Math; A in Earth Space Geography; C in US History, and A in Learning Lab. *Exhibit E, p. 15.*
55. Given the end-of-semester effort required to support Student—and frustration with general education teachers regarding their communication and policies related to missing assignments—Parents were concerned “there is an issue with the [S]chool’s support systems that we must revisit as an IEP team as soon as possible to adjust for [Student’s] senior year.” *Exhibit L, pp. 372-373; Interviews with Parents and Student; Exhibit 1, pp. 1-3, 10-15.* Parent wanted to meet with District to address her concerns that executive functioning challenges were overwhelming Student’s ability to learn. *Interviews with Parents and Student.*
56. On May 21, 2025, Parents met with District staff, including School Psychologist and Director, to discuss concerns related to IEP development and implementation. *Exhibit L, pp. 370-400; Exhibit 1, pp. 10-15; Exhibit 2, pp. 1-11.* District agreed to convene Student’s IEP team at the beginning of his senior year to address these concerns. *Interviews with Director and Parents.*

## I. August 2025 IEP

57. Student’s IEP team—including attorneys for Parents and District and District Director—convened on August 19, 2025. *Exhibit A*, p. 69; *See Exhibit L*, pp. 304, 409-410, 430-438, 475; *Interviews with Parents, Case Manager, and Director*. This meeting resulted in the August 2025 IEP. *See Exhibit A*, pp. 68-88; *Exhibit L*, pp. 562-583.

### Present Levels of Achievement and Functional Performance

58. This section includes updated final grades from May 2025: Language Arts (B); Algebra 2 (C); US History (C); Earth Space Geography (A); and Learning Lab (A). *Exhibit A*, p. 70.

59. This section added a medical diagnosis of hip dysplasia and hypermobility syndrome, which “causes daily pain, and sometimes significant daily pain,” to his medical history. *Id.* at p. 71.

60. Finally, this section includes updated data from May 2025 regarding Student’s progress on his two February 2025 IEP goals. *Id.* at pp. 74-75; *see Exhibit F*, p. 3. Student was making progress on his first self-determination goal but was making insufficient progress on his second self-determination goal. *Id.*

### Parent/Student Input

61. This IEP includes a detailed Parent/Student input section. *See Exhibit A*, pp. 76-78. Parents acknowledged that the IEP team “concluded with new strategies to help with [Student’s] executive function needs, such as the use of a Google Calendar and Google Doc with hyperlinks to track assignments.” *Id.* at p. 76.

62. Parents requested that Student have one-on-one services from a paraprofessional to support his executive functioning needs. *Id.* at pp. 76-77; *Interviews with Parents, Case Manager, and Director*. District, in an embedded Prior Written Notice (“PWN”), declined Parents’ request because there was no evidence that Student needed this level of support. *Exhibit A*, p. 88; *see also Interviews with Case Manager and Director*. Student also did not want one-to-one support from a paraprofessional given the potential to “stand out.” *Interview with Student*.

63. Parents also requested “specific weekly designated reteaching time,” such as general education teachers and Student identifying a “mutually agreed-upon time to check for understanding of taught concepts, reteach, and assess progress on broken-down tasks and assignments.” *Exhibit A*, p. 77.

64. District did not specifically incorporate this request because checks for understanding, reteaching, and assessing progress are “best practices” for all general education classes. *Interview with Director*. To the extent Student needed additional support, his specialized direct instruction services and accommodations already accounted for it. *Id.*

65. Finally, Parents proposed increasing Student's one-on-one time with Case Manager to at least 15 minutes of individualized time, four times per week. *Id.* at p. 78. The IEP team incorporated this request into the service delivery statement. *Id.* at p. 86.

### Annual Goals

66. The IEP team developed three new annual goals: two in self-determination and one in social/emotional wellness. *Id.* at pp. 41-41, 81-82.

67. Parents are concerned that the IEP team did not consider resources on executive functioning that Parents provided during the development process. *Interview with Parents; Exhibit 4; Reply*, p. 4; ("There is no evidence [District] used a methodology proven to be effective for a child with effective function deficits or considered any sources in developing the goals that are designed to improve [Student's] executive function needs.").

68. The first self-determination goal is related to work completion: "[b]y the end of the 2025-2026 school year, given explicit instruction in executive functioning (EF) strategies, [Student] will learn and practice **new EF tools and techniques**, and independently apply these strategies to initiate, complete, and keep track of assignments in **at least 80% of opportunities**, as measured by teacher observation, planner checks, and assignment completion records." *Id.* at p. 81 (emphasis in original). The baseline is assignment completion percentage. *Id.*

69. This goal has three objectives:

- Objective 1: "When [Student] experiences difficulty initiating an assignment (e.g., feeling stuck, overwhelmed, unmotivated, disorganized, or discouraged), he will identify at least one specific challenge area and independently select and apply one [executive functioning] tool or technique to move forward within **10 minutes in 8 out of 10 observed instances**, as documented by teacher/[paraprofessional] notes and student self-reflection." *Id.* (emphasis in original). This objective also provides examples of strategies to use if feeling overwhelmed or unmotivated. *Id.*
- Objective 2: "During assignments or tests, [Student] will independently use at least one [executive functioning] tool or technique to sustain effort and complete the task in **8 out of 10 opportunities**, as measured by teacher observation, assignment completion records, and self-monitoring checklists." *Id.* (emphasis in original). This objective also provides examples of strategies to use for organization and self-encouragement. *Id.*
- Objective 3: "[Student] will use an [executive functioning] tool (e.g., Google Calendar, digital planner, or other organizational app) to record assignment due dates and upcoming tests, and demonstrate accurate use of the tool in **80% of weekly planner checks**, as documented by teacher review and digital logs." *Id.* (emphasis in original).

70. The second self-determination goal is related to self-advocacy: “[s]uccessful college students can identify their understanding of a topic and recognize when they need help. To ensure [Student] becomes a successful college student, he will:” (1) “[w]ithin 15 minutes of starting an assignment, accurately assess whether he can complete it independently in 4 out of 5 instances by August 20, 2026;” and (2) “[i]f he finds that he cannot complete the assignment due to a lack of understanding, he will appropriately seek assistance from his teacher in 4 out of 5 instances, as measured by teacher observations and data collection by August 20, 2026.” *Id.* at pp. 81-82.
71. The unit of measurement for this goal is teacher observation and data collection, and Student’s baselines are “2 out of 5 for assignment understanding” and “3 out of 5 for asking for teacher assistance.” *Id.* at p. 82.
72. Finally, the social/emotional goal wellness goal is: “[s]tress [m]anagement: [School Psychologist] will meet with [Student] at least once a month to guide and support him to identify his stress levels and relevant emotional regulation strategies. To measure progress, [Student] will be able to name two emotional regulation strategies tailored to the type and level of stress he is experiencing during each session. By the end of the school year, [Student] will consistently identify and apply two emotional regulation strategies in response to his stress levels.” *Id.* Student’s baseline is “[t]o be determined.” *Id.*

### Accommodations

73. This IEP contains 34 accommodations. *Id.* at pp. 42-43, 83. These accommodations are organized by group and emphasize executive functioning. *Id.* at p. 83. Groups of accommodations include, for example, self-advocacy and task organization. *Id.*
74. Relevant here, the IEP also includes two updated accommodations that address Parent’s concerns from May 2025 related to assignment completion:
- Executive Functioning Strategies: “Communicate and implement strategies to support executive functioning. [Student] will track his assignments using a Google Doc, which will include hyperlinks to class assignments, important deadlines, and other information to help him manage his workload. Teachers will prompt [Student] to check his Google Doc to enhance his awareness of deadlines, and provide support for initiating and progressing on projects.”
  - Late Submissions: “Assignments submitted up to 5 days late will not be penalized. Teachers will grade late work within 2 school days of submission. Extensions beyond 5 days may be arranged with the teacher in advance.”

*Id.* at pp. 73, 83; *Interview with Case Manager; Exhibit L*, pp. 304, 372-373, 404-407.

### Service Delivery Statement

75. The description of “Special Education Teacher” services was updated to state that Student’s Case Manager “will oversee IEP implementation across the curriculum and work collaboratively with general education teachers. This includes arranging time for [Student] to work with his general education teachers during Learning Lab for access to concepts and reteaching. [Student] requires direct special education support. The [Case Manager] will progress monitor and collect data regarding [Student’s] executive functioning skills. **Out of the 235 weekly minutes, [Student] will receive 15 minutes of individualized 1:1 direct instruction in each Learning Lab period to work on [Student’s] self-determination goals.**” *Exhibit A*, p. 86. (emphasis added).
76. From Case Manager’s perspective, the IEP team added this individualized instruction language to reflect the amount of direct instruction Student was already receiving from Case Manager related to his self-determination goals. *Interview with Case Manager*. From Parent’s perspective, this language was added given their continued concern that Learning Lab operated as a study hall without direct support. *Interview with Parents and Student*.
77. The description of “School Psychologist/Social Worker” services was also updated to reflect that “[School Psychologist] will provide monthly guidance to [Student], helping him recognize his stress levels and develop effective emotional regulation strategies.” *Exhibit A*, p. 86.
78. This IEP made one change to Student’s related service minutes: he was to receive 10 minutes of direct psychologist/social work services from School Psychologist monthly—rather than 30 minutes semesterly—and was to receive 20 rather than 15 minutes of indirect psychologist/social work services monthly. *Id.*
79. Finally, Student’s placement remained the same as in the two prior IEPs. *Id.* at p. 87.

### **J. Progress on August 2025 IEP Goals**

80. As of December 2025, Student’s status on his first updated self-determination goal was “progress made.” *Exhibit F*, p. 4.
81. For Objective 1—using executive functioning tools to initiate tasks—Student was successful “in 6 out of 10 observed instances, as documented by [Case Manager].” *Id.*
82. For Objective 2—using executive functioning tools to sustain effort during an assignment—Student was successful in “7 out of 10 opportunities, as measured by teacher observation, assignment completion records, and self-monitoring checklists.” *Id.*
83. For Objective 3—using executive functioning tools to track assignments—Student was successful “in 75% of his weekly planner checks, as documented by teacher view and digital logs.” *Id.*

84. Student's status on his second updated self-determination goal was also "progress made" as of December 2025. *Id.* at p. 5. He was able to accurately assess whether he could independently complete an assignment in "3 out of 5 instances" and appropriately sought assistance from his teachers in "3 out of 5 instances, as measured by teacher observations and data collection." *Id.*
85. Finally, for the updated social/emotional wellness goal, his status was also "progress made" as of December 2025. *Id.* at p. 5. He "continues to develop his self-regulation strategies." *Id.*

#### **K. Executive Functioning Needs and Concerns: August to November 2025**

86. Because Student was enrolled part-time in District's career and technical education program, he only took one academic general education class, English, in Fall 2025. *See Exhibit E*, pp. 7-9, 16-17. In part because of this reduced courseload, Student's end-of-semester push to complete missing assignments in November 2025 was much less intense than in May 2025. *Interviews with Parents, Student, and Case Manager.*
87. According to Case Manager, Student's medical condition and associated surgeries have made it harder for him to focus and have continued to exacerbate his executive-functioning and anxiety challenges. *Interview with Case Manager.*

#### **L. Accessibility of IEPs to Teachers and Others**

88. Case Manager was involved in the development of the February 2024 IEP and had access to it through Frontline, District's online document management system. *See Exhibit A*, p. 21; *Interview with Case Manager.*
89. At the beginning of the 2024-2025 school year, Case Manager provided general education teachers with an IEP snapshot and requested access to all Google Classroom and Schoology pages for his classes. *Exhibit L*, p. 43; *Interview with Case Manager.* The IEP snapshot included information on the IEP accommodations, services, and goals at issue in this investigation. *Exhibit L*, pp. 46-49; *Interviews with Case Manager, Science Teacher, and Math Teacher.*
90. Student's general education teachers also accessed the February 2024 IEP directly on Frontline and included copies of the IEP and IEP snapshot in organized special education folders. *Interviews with Science Teacher and Math Teacher.*
91. Student's general education teachers frequently discussed implementation of the February 2024 IEP with Case Manager and understood their responsibilities for implementation. *Interviews with Case Manager, Science Teacher, and Math Teacher; Response*, p. 6.
92. Regarding the February 2025 IEP, Case Manager was also involved in its development. *Exhibit A*, p. 23; *Interview with Case Manager.* Case Manager sent an updated IEP snapshot to general education teachers. *Interviews with Case Manager, Science Teacher, and Math Teacher.*

93. Science Teacher was involved in the development of the February 2025 IEP. *Exhibit A*, p. 23; *Interview with Science Teacher*. Science Teacher and Student's other general education teachers had access to the IEP on Frontline and frequently discussed implementation responsibilities with Case Manager. *Interviews with Case Manager, Science Teacher, and Math Teacher*.
94. Finally, regarding the August 2025 IEP, Case Manager was involved in its development. *Exhibit A*, p. 69; *Interview with Case Manager*. Case Manager provided an IEP snapshot to general education teachers. *Exhibit L*, pp. 441-447. Case Manager also discussed the IEP and accommodations with his technical education teachers given his part-day enrollment in District's career and technical education program. *Exhibit L*, pp. 424, 441-447; *Response*, p. 6.
95. Student's English Teacher was involved in the development of the August 2025 IEP. *Interview with English Teacher; Exhibit A*, p. 50. She accesses the IEP regularly through Frontline and uses an IEP tracking spreadsheet to maximize implementation of accommodations for students. *Interview with Case Manager*. She works closely with Case Manager to ensure she understands how to implement the IEP. *Interviews with English Teacher and Case Manager*.

#### **M. Implementation of IEPs: Provision of Direct Specialized Instruction**

96. Parent and Student are concerned that the "Learning Lab" special education class, taught by Case Manager, a licensed special education teacher, does not fulfill the requirement for direct specialized instruction. *Interview with Student and Parents; Complaint*, p. 9; *Reply*, pp. 1, 4-5; *Exhibit L*, pp. 257, 409-410.<sup>4</sup>
97. Student's IEPs each require 235 minutes of weekly direct instruction provided by a special education teacher outside of the general education classroom. *Exhibit A*, pp. 18, 45, 86.<sup>5</sup>
98. Between December 2024 and November 2025, Student was enrolled in one Learning Lab period per semester. *Exhibit E*, pp. 1-2, 6-7. One Learning Lab class period amounts to 235 minutes of instruction per week. *Response*, p. 2; *Exhibit A*, p. 86. Learning Lab is meant to fulfill Student's 235 minutes per week of direct specialized instruction required by his IEP. *Id.*; *Interviews with Case Manager and Director*.
99. District developed Learning Lab classes about two years ago when it recognized that existing academic support classes needed to be better delineated between content versus executive-functioning support. *Interview with Director*. Rather than one umbrella academic support class, District now offers Learning Lab, Math Lab, and Reading Lab. *Id.* Learning Lab emphasizes "direct instruction from a special education teacher in a small class setting to

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<sup>4</sup> Parents and Student are not concerned about provision of related services from School Psychologist. *Complaint*, pp. 1-15; *Exhibit G*, pp. 1-2.

<sup>5</sup> Student's August 2025 IEP further notes that of the 235 minutes, Student "will receive 15 minutes of individualized 1:1 direct instruction in each Learning Lab period to work on [Student's] self-determination goals." *Exhibit A*, p. 86. Parents and Student do not contest that Student has received the 15 minutes of individualized 1:1 direct instruction required by his August 2025 IEP. *Reply*, p. 1. As such, Parents and Student are only concerned that Student is not receiving the remaining 220 minutes per week of specialized direct instruction owed to him by his IEPs. *Id.*

improve executive functioning skills” and groups together between four and eight students who need this type of support. *Exhibit A*, pp. 36-37, 74; *Interviews with Case Manager and Director*.

100. Student reported that Learning Lab is an uncontrolled and unstructured environment: other students might be talking loudly, goofing off, and roughhousing in the classroom. *Interview with Student*. Student usually sits down and tries to complete assignments, but he has a hard time focusing given the chaotic environment. *Id.* Student said that full-class instruction does “not really” occur because it would not be effective given that students in the class have such different needs and functioning abilities. *Id.*; *Reply*, pp. 1, 4.
101. Student stated that when he receives one-on-one or small-group instruction from Case Manager during Learning Lab, it is “fantastic.” *Id.* However, this type of support is “short-lived” and “extremely rare” because Case Manager is “spread impossibly thin” dealing with other students who, per Student, need much more support than he does. *Id.*
102. Student acknowledged that he has learned executive functioning strategies—such as organization methods, setting reminders on his phone for class periods, and email etiquette for communicating with teachers—during small-group and individualized instruction in Learning Lab. *Id.* In one-on-one time, Case Manager has worked with him to break down assignments, such as math quizzes and tests, into steps; has broken down and retaught difficult concepts; and has encouraged Student’s own thought processes. *Id.* Per Student, “when this happens, it’s incredible. But it’s just not happening enough.” *Id.*
103. Case Manager reported that all students in Student’s Learning Lab period are there because they have similar executive functioning needs. *Interview with Case Manager*. He also organizes his Learning Lab class rosters to ensure that students who need more support are placed with higher achieving students. *Id.* As such, each Learning Lab class has only one or two students with higher needs versus four students with more mild or moderate needs. *Id.*
104. From Case Manager’s perspective, he teaches executive functioning skills to students mostly on an individual basis and sometimes in small groups. *Interview with Case Manager*.
105. During Learning Lab, Case Manager instructs Student on specific executive functioning strategies, such as using Google Docs and Google Calendar to organize homework assignments and due dates, scheduling breaks for self-regulation, making step-by-step plans, and setting phone reminders to prompt task initiation. *Id.*; *see, e.g., Exhibit L*, p. 584 (“I would also like to talk to you about the executive function tools you are using and see if we can come up with some more tools for you to explore [during Learning Lab]”); *id.* at p. 275 (working “together” with him to complete an assignment tracking sheet); *id.* at p. 276 (referencing “work plan” that Student and Case Manager developed during Learning Lab); *id.* at p. 50 (using Learning Lab time to develop a work completion plan); *id.* at p. 54 (developing plan for finals week); *id.* at p. 59 (referencing Student working “with” Case Manager on math and history assignments); *id.* at p. 73 (acknowledging Case Manager’s help with assignment completion).

106. Case Manager also uses Learning Lab to conduct progress monitoring on Student's IEP goals. *Exhibit O*, pp. 1-3; *Interview with Case Manager*.
107. Per Science Teacher, Math Teacher, and English Teacher, Learning Lab gives Student a valuable opportunity to work with Case Manager on task completion, organization, time management, and self-advocacy. *Interviews with Science Teacher, Math Teacher, and English Teacher*; see, e.g., *Exhibit L*, pp. 5, 8. Additionally, English Teacher has provided "extra support" to Student during Learning Lab. *Exhibit L*, p. 584.

#### **N. Implementation of IEPs: Accommodations**

108. Parent and Student are concerned that general education teachers did not implement three accommodations, required by the three IEPs, between December 2024 and November 2025: (1) checks for understanding, (2) pre-teaching and re-teaching, and (3) encouragement of executive functioning skills. *Complaint*, pp. 13; *Reply*, p. 4; *Interviews with Student and Parent*.
109. As a threshold matter, the service delivery statements of the three IEPs indicate that classroom teachers will "check for understanding when instructions and/or concepts are communicated," "provide pre-teaching and re-teaching of concepts and vocabulary," and "encourage executive function skills in and out of the classroom to improve Student's academic skill development." *Exhibit A*, pp. 18, 45, 86. The parties agree that these activities are required by the IEPs. *Interviews with Parents, Student, Director, Case Manager, Science Teacher, Math Teacher, and English Teacher*.

#### **Checks for Understanding**

110. Student's IEPs require that his teachers "check for understanding when instructions and/or concepts are communicated." *Exhibit A*, pp. 18, 45, 86. Student's IEPs also each expressly list "checks for understanding" as an aspect of Student's accommodation related to providing detailed instructions. See *id.*, pp. 15, 42-43, 83.
111. Parents and Student are concerned that Student did not receive this accommodation consistently based on Student's reporting and his frequent confusion regarding assignment expectations. *Complaint*, p. 13; *Interviews with Parents and Student*.
112. Parents, Student, and District agree that this accommodation requires teachers to check in with Student regularly throughout class to determine whether Student understands the substantive content and instructions for completing assignments or in-class work. *Interviews with Parents, Student, Case Manager, Math Teacher, Science Teacher, and English Teacher*.
113. Student acknowledged that his current English Teacher is "good" with checks for understanding and that his concerns do not center around her class. *Interview with Student*. Indeed, English Teacher provides checks for understanding to Student daily, especially when introducing new content. *Interview with English Teacher*. She uses "fist to five"—a strategy

where students assess their own understanding of a topic, where fist means “0” and little understanding and “5” means solid understanding—and exit tickets to assess content knowledge. *Id.* For Student in particular, English Teacher also checks in by walking to his desk and asking if the content is making sense or if anything feels confusing. *Id.*

114. Student reported that his 11th grade general education teachers provided checks for understanding at least some of the time between December 2024 and May 2025. *Interview with Student.*
115. From Student’s perspective, Science Teacher was “decent” about checks for understanding and pulled Student aside when she noticed he was struggling to understand either the content or assignment instructions. *Id.*
116. Student reported that History Teacher “sometimes did a good job” with providing checks for understanding but other times did not provide checks for understanding if the class was too chaotic. *Id.* Student reported that History Teacher would stop by his desk to ask questions, such as “hey, did you catch what you needed to? Need me to run through anything?” *Id.*
117. Student acknowledged that Math Teacher provided checks for understanding by “making rounds through the whole class” after giving instruction or introducing an assignment and would “sometimes” ask Student if he needed help. *Id.*
118. Student’s 11th grade teachers credibly reported providing checks for understanding to Student between December 2024 and May 2025. *Interviews with Math Teacher and Science Teacher.*
119. For instance, Math Teacher reported that he would often see Student not writing down notes or engaging with warm-up problems; in those times, Math Teacher would approach Student and ask what he was thinking about and how he was working through the problem. *Interview with Math Teacher.* Math Teacher also used quizzes and tests as checks for understanding and would provide feedback to Student on areas of misunderstanding. *Id.* Finally, Math Teacher noted that Student can present as being inattentive even when he is engaged; as such, he would check in with Student, such as by asking if Student understood directions and content, if Math Teacher could not tell whether Student was tracking. *Id.*
120. Science Teacher reported checking in with Student daily through individual conversations, especially during lab work. *Interview with Science Teacher.* Because each lab station had specific instructions, she would approach Student at each station to ensure he understood the expectations for that station. *Id.*
121. Case Manager observed all of Student’s teachers provide checks for understanding between December 2024 and November 2025. *Interview with Case Manager.* Case Manager also frequently discussed implementation of this accommodation with general education teachers to ensure that they were checking in regularly with Student. *Interviews with Case Manager, Math Teacher, Science Teacher, and English Teacher.*

### Pre-Teaching and Re-Teaching

122. Student's IEPs require that his teachers "provide pre-teaching and re-teaching of concepts and vocabulary." *Exhibit A*, pp. 18, 45, 86. Pre-teaching and re-teaching are not otherwise expressly included as accommodations in Student's IEPs. *See id.* at pp. 15, 42, 83.
123. Parents and Student are concerned that teachers did not pre-teach or re-teach content based on his reporting. *Complaint*, p. 13; *Reply*, p. 4. *Interviews with Parents and Student*.
124. Parents, Student, and District agree that this accommodation requires teachers to provide opportunities for Student to engage with course material both before and after instruction. *Interviews with Parents, Student, Case Manager, English Teacher, Science Teacher, Math Teacher, and Director*. Pre-teaching refers to front-loaded opportunities to engage with content, whereas re-teaching refers to revisiting content and remediating learning gaps. *Id.*
125. Student reported that his current English Teacher provides pre-teaching and re-teaching opportunities, but that his 11th grade general education teachers did not between December 2024 and May 2025. *Interviews with Parents and Student*.
126. Science Teacher credibly reported providing pre-teaching and re-teaching opportunities to Student. *Interview with Science Teacher*. She coordinated with Case Manager before new units to ensure Student had pre-access to materials, such as vocabulary lists and assignment calendars, and provided additional video materials that Student could watch to prime his understanding before a unit. *Interviews with Science Teacher and Case Manager; see, e.g., Exhibit L*, pp. 117-137. Regarding re-teaching, Student had the opportunity to remediate any assignment, quiz, or assessment with Science Teacher. *Interview with Science Teacher*. As part of these remediation chances, Science Teacher would reteach the material, go over the correct answers, and require students to complete "makeup forms" to self-assess why they chose the wrong answer and reflect on their knowledge gaps. *Id.*
127. Math Teacher also credibly reported providing pre-teaching and re-teaching opportunities to Student. *Interview with Math Teacher*. Like Science Teacher, Math Teacher coordinated with Case Manager to ensure that upcoming difficult concepts were frontloaded for Student. *Interviews with Math Teacher and Case Manager*. Regarding re-teaching, Math Teacher provided Student the opportunity to correct quizzes and would occasionally work with Student during his Learning Lab period to re-teach concepts with which Student struggled. *Id.*; *see, e.g., Exhibit L*, pp. 79, 156.
128. History Teacher also provided pre-teaching and re-teaching opportunities during this time and coordinated with Case Manager on these opportunities. *Interview with Case Manager; see, e.g., Exhibit L*, pp. 55, 82, 104, 256, 286-287.
129. Case Manager observed all of Student's general education teachers provide pre-teaching and re-teaching opportunities to Student, both in class and through coordination with Case Manager. *Interview with Case Manager*.

130. Finally, Student has the opportunity for additional instruction from general education teachers through weekly “access time,” which is built into his schedule once per week. *See Exhibit A*, pp. 9, 37, 75; *Exhibit L*, pp. 52, 65, 99, 157, 277, 286, 289, 304; *Interviews with Case Manager and English Teacher*.

#### Encouragement of Executive Functioning Skills

131. Student’s IEPs require that his teachers “encourage executive function skills in and out of the classroom to improve [Student’s] academic skill development.” *Exhibit A*, pp. 18, 45, 86.

132. Parents, Student, and District agree that this accommodation requires general education teachers to regularly prompt Student to use executive functioning skills, such as self-advocacy, task initiation, planning, goal setting, organization, and time management. *Interviews with Parents, Student, Case Manager, Science Teacher, Math Teacher, and English Teacher*. Parents also expected District would also implement specific executive functioning strategies that worked at home—such as scaffolding, physical movement breaks, use of rewards, auditory stimulation, and building trusting relationships—to support Student’s development of executive functioning skills. *Interview with Parents*.

133. Between December 2024 and May 2025, Student’s 11th grade general education teachers regularly encouraged Student’s use of executive functioning skills. *Interviews with Case Manager, Science Teacher, and Math Teacher*.

134. Science Teacher focused on encouraging him to contact teachers when he was struggling with task initiation or task completion to advocate for his needs. *Interview with Science Teacher*. Science Teacher also coached him on planning and time management, especially with long-term assignments, by teaching him to use a table of contents and calendar as an organization tool. *Id.*; *see, e.g., Exhibit L*, pp. 70, 119, 124, 265-266, 279, 281, 299.

135. Math Teacher emphasized self-advocacy and planning, including working with Student to break down assignments into manageable components. *Interview with Math Teacher*; *see, e.g., Exhibit L*, pp. 71-72, He also encouraged auditory processing and limited writing requirements to provide flexibility for assignment completion. *Interview with Math Teacher*.

136. History Teacher encouraged Student to develop skills related to focus and attention, including by redirecting Student if he was off task, and on organization, task initiation, and task prioritization. *See, e.g., Exhibit L*, pp. 34, 52, 82, 99, 102, 109, 256, 267, 269, 304.

137. The August 2025 IEP also expressly includes an accommodation for executive functioning strategies: “[c]ommunicate and implement strategies to support executive functioning. [Student] will track his assignments using a Google Doc, which will include hyperlink to class assignments, important deadlines, and other information to help him manage his workload. Teachers will prompt [Student] to check his Google Doc to enhance his awareness of deadlines, and provide support for initiating and progressing on projects.” *Id.* at p. 83.

138. Case Manager created the Google Doc for assignment tracking on August 20, 2025 and has used it consistently with Student since then. *See Exhibit L*, pp. 523-525; *Exhibit G*, pp. 3-35. *Interview with Case Manager*. Every Monday, Case Manager and Student discuss Student's missing assignments, develop a plan, and transpose that plan into Student's Google Doc and Google Calendar. *Interview with Case Manager*; *see Exhibit G*, pp. 3-35.
139. Case Manager, Student, Parent, and Student's general education teachers, including English Teacher, also have access to this Google Doc. *See Exhibit L*, p. 523; *Interviews with Case Manager and English Teacher*.
140. English Teacher references Student's Google Doc frequently with Student and encourages him to use that tool and stay on top of his assignments during individual check-ins with Student. *Interview with English Teacher*.

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: District developed, reviewed, and revised an IEP that addressed Student's executive functioning needs, included measurable annual goals, included a statement of special education services, and addressed any lack of progress toward IEP goals, as required by 34 C.F.R. §§ 300.324(a)(1)(iv), 300.324(a)(2), 300.320(a)(4), and 300.324(b)(1)(ii)(A). District complied with the law.**

#### **A. Legal Standard for IEP Development**

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, 394 (2017). An analysis of the adequacy of an IEP begins with the two-prong standard established by the United States Supreme Court in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The first prong determines whether the IEP development process complied with the IDEA's procedures; the second prong considers whether the IEP was reasonably calculated to enable the child to receive an educational benefit. *Id.* at 207. If the question under each prong can be answered affirmatively, then the IEP is appropriate under the law. *Id.* Taken together, these two prongs assess whether an IEP is procedurally and substantively sound. *Id.*

Regarding the second prong, the substantive adequacy of an IEP depends on whether the IEP was appropriate when drafted and not with consideration of subsequent information. *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 992 (1st Cir. 1990) ("An IEP is a snapshot, not a retrospective. In striving for 'appropriateness,' an IEP must take into account what was, and was not, objectively reasonable when the snapshot was taken."); *see also, Tyler V., ex rel. Desiree V. v. St. Vrain Valley Sch. Dist. No RE-1J*, No. 07-CV-01094-PAB-KLM, 2011 WL 1045434, at \*3-4 (D. Colo. Mar. 21, 2011). Moreover, the inquiry concerns "not whether the IEP was prescient enough to achieve

perfect academic results, but whether it was ‘reasonably calculated’ to provide an ‘appropriate’ education.” *Roland M.*, 910 F.2d at 992.

## **B. February 2024 IEP**

### **i. Development Process for the February 2024 IEP**

The February 2024 IEP was developed more than one year before the Complaint was filed. (FF # 8). Thus, the CDE will not consider the propriety of the IEP development process. 34 C.F.R. § 300.153(c); *CDE State-Level Complaint Procedures*, ¶ C(2)(c). However, the CDE still has authority to consider the substantive adequacy of the IEP itself. *Id.* Thus, the CDE turns directly to consider the second prong to assess whether the February 2024 was substantively adequate. *Rowley*, 458 U.S. at 207.

### **ii. Substantive Adequacy of the February 2024 IEP**

#### **Executive Functioning Needs**

The IEP team must consider the strengths of the child, the parent’s concerns, evaluation results, and “the academic, developmental, and functional needs of the child.” 34 C.F.R. § 300.324(a).

Here, Parent is concerned that Student’s February 2024 IEP did not adequately consider Student’s executive functioning needs given his repeated difficulty with assignment completion, as evidenced by a pile-up of incomplete assignments in December 2024. (FF #s 28-33).

The present levels of academic achievement and functional performance section of this IEP details Student’s executive functioning needs at the time, including his difficulties with staying on task and completing long-term assignments. (FF # 10). This IEP also identifies self-advocacy and “executive functioning skills to support organization, task completion, and time management” as areas of need. (FF #s 10-11). The “student needs and impact of disability” section further specifies that Student requires specialized instruction either one-on-one or in a small group setting and accommodations to support his executive functioning needs. (FF # 11).

Regarding specialized instruction, this IEP provides 235 minutes of weekly direct specialized instruction from Case Manager, a licensed special education teacher. (FF # 14). Student was enrolled in Learning Lab, a small-group environment for students who need executive functioning support, to effectuate provision of this special education service. (FF #s 97-99). Regarding related services to promote self-advocacy, this IEP requires 30 minutes semesterly and 15 minutes monthly of direct and indirect support from School Psychologist. (FF # 14). Regarding accommodations, the IEP includes 17 designed to support Student’s executive functioning needs. (FF # 14). Indeed, the IEP details that Student took advantage of these accommodations—such as extended time, checks for understanding, preferential seating, and ability to take tests in a quiet location—to support his executive functioning needs. (FF # 10). Finally, this IEP features three goals designed specifically to target Student’s executive functioning challenges. (FF # 13). His first self-determination goal is directed toward task initiation and completion. (FF # 22). His

second self-determination goal is directed toward organization. (FF # 24). His social-emotional wellness goal is directed toward self-regulation and stress management. (FF # 26).

Student struggled with task completion between December 2024 and February 2025, but he was able to complete his missing assignments in part due to Parents' efforts at home—and in large part due to his support and accommodations at School. (FF #s 28-33). He worked with Case Manager during Learning Lab to prioritize and complete assignments, benefited from his accommodations related to executive functioning—such as extended deadlines and shortened assignments—and progressed on his goals directed toward executive functioning. (FF #s 10, 14, 22-27, 32). Student ultimately passed all classes in December 2025 and was on track to graduate with a regular high school diploma. (FF #s 12, 33). For these reasons, the CDE finds and concludes that District considered Student's executive functioning needs, as required by 34 C.F.R. § 300.324(a).

### Statement of Special Education Services

An IEP must include a “statement of the special education and related services” that will be provided to enable the child to (1) attain the annual goals, (2) be involved in and make progress in the general education curriculum, and (3) participate in nonacademic activities. 34 C.F.R. § 300.320(a)(4).

Under 34 C.F.R. § 300.320(a)(7), the IEP must include “[t]he projected date for the beginning of the services,” “the anticipated frequency,” “location,” “and duration of those services and modifications.” 34 C.F.R. § 300.320(a)(7); see *Letter to McAndrews and Ramirez*, 124 LRP 33702 (OSERS 2024). Additionally, “the amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP.” *Id.* (citing *Letter to Rowland*, 75 IDELR 108 (OSERS 2019)). Overall, “the scope of the [district’s] commitment of resources” must be clear to parents and IEP Team members. *Letter to McAndrews and Ramirez*, 124 LRP 33702; see, e.g., *Tamalpais Union Sch. Dist. v. D.W.*, 70 IDELR 230 (N.D. Cal. 2017) (noting that “Parents can’t make an informed decision on whether to accept a proposed IEP if the document includes only a vague description of the student’s services.”).

Here, Parent is concerned that the special education and related services section is confusing as written, and therefore that services are undeliverable, because the IEP includes a standard preface describing District’s “integrated services model” that references multiple potential providers. (FF #s 14-20). Parents are also concerned that this section of the IEP references another student and her services within a paragraph describing Case Manager’s role. (FF # 19).

This IEP includes standard District language that introduces its integrated service model. (FF #s 15-16). This integrated service model emphasizes the collaborative nature of District’s special education services. (FF #s 15-16). Reflecting this collaborative approach, the IEP states that specialists “may” include “one or more” of a finite list of special education providers: general education teachers, paraeducators, special education teachers, and school psychologist/social workers. (FF # 16). If the IEP had only included this prefatory introduction to District’s integrated

services model, it could have been confusing and undeliverable as written: there would be no identification as to which providers would provide which services for Student. (FF #s 16, 18). However, this section goes on to specifically establish—through bolded headers—the services Student will receive from his classroom teachers, Case Manager, and School Psychologist. (FF #s 17, 19, 20). Moreover, the IEP includes a table detailing the specific specialized instruction area or related service, location, type of special education or related services, service provider role, start and end date, and frequency of special education and related services to be provided. (FF # 14). This table specifies that Student will receive 235 minutes weekly of direct specialized instruction from a special education teacher outside of the general education environment; 90 minutes monthly of indirect specialized instruction from a special education teacher outside of the general education environment; 30 minutes semesterly of direct related services from a school psychologist/social worker outside of the general education classroom; and, 15 minutes of monthly indirect related services from a school psychologist/social worker outside of the general education classroom. (FF # 14). This section thus includes all components required by 34 C.F.R. § 300.320(a)(7).

While this section of the IEP erroneously referenced another student and the support she was to receive from Case Manager, this error did not contribute to any substantive misunderstanding about Student’s service delivery. (FF #s 19, 96). All parties clearly understood the service minutes to which Student was entitled per the IEP—and indeed, Parent and Student have relied on that understanding to allege that Student was not receiving the specialized instruction minutes to which he was entitled. (FF # 96). Student also received all service minutes owed by School Psychologist. (FF # 96). Here, this error did not lead to any implementation issues; however, the CDE cautions District that including information for the wrong student in a service delivery statement could foreseeably lead to a student receiving inappropriate services or not receiving the services to which they are entitled. (See FF # 19). That was not the case here. (FF # 96).

For these reasons, the CDE finds and concludes that District included a statement of the special education and related services, as required by 34 C.F.R. § 300.320(a)(4).

### Measurable Annual Goals

An IEP must include a statement of measurable annual goals, including academic and functional goals, designed to meet the child’s needs that result from the child’s disability and thereby enable the child to be involved in and make progress in the general education curriculum. 34 C.F.R. § 300.320(a)(2). Annual goals describe what a child with a disability can reasonably be expected to accomplish within a 12-month period in the child’s special education program. *Letter to Butler*, 213 IDELR 118 (OSERS 1988).

Here, Parent’s concern is that the February 2024 IEP included the same goals as the previous IEP and that these goals were insufficient to meet Student’s executive functioning needs. (FF #s 13, 22-27, 28-33).

Here, Student’s IEP goals were designed to improve his executive functioning needs and were developed by a team including Case Manager and School Psychologist: two individuals with

expertise in executive functioning needs. (FF # 9). Student's first self-determination goal is measurable, based on high school standards, and directed toward teaching compensatory strategies—using coping skills to encourage task initiation—rather than assignment completion alone. (FF #s 13, 22-23). His second self-determination goal is also measurable, based on high school standards, and emphasizes development of a different compensatory strategy: using organizational tools. (FF #s 13, 24-25). His social/emotional wellness goal is also measurable, based on high school standards, and directed toward using compensatory strategies to improve self-regulation techniques. (FF #s 13, 26-27). Student was making progress on these goals but had not yet met them, suggesting that Student's goals remained individualized and appropriately ambitious for Student. (FF #s 22-27). Student was also making expected progress in the general education curriculum: he passed all classes and was on track to graduate. (FF #s 12, 33).

For these reasons, the CDE finds and concludes that District developed measurable annual goals, as required by 34 C.F.R. § 300.320(a)(2).

### **C. February 2025 IEP**

#### **i. Development Process for the February 2025 IEP**

Parent and Student did not raise concerns about the development process for the February 2025 IEP. *See Complaint*, pp. 1-15. Thus, the CDE turns directly to the second prong of whether the February 2025 IEP was substantively adequate. *Rowley*, 458 U.S. at 207.

#### **ii. Substantive Adequacy of the February 2025 IEP**

##### **Executive Functioning Needs**

The same requirements of 34 C.F.R. § 300.324(a) described above apply here. Parent is concerned that Student's February 2025 IEP did not adequately consider Student's needs in executive functioning, especially given the number of missing assignments Student had by May 2025. (FF #s 50-56). Parent also contends that the IEP emphasized assignment completion rather than developing Student's capacity to employ transferable executive functioning strategies. (FF #s 55-56).

This IEP includes information on Student's executive functioning needs in its present levels of achievement and functional performance section. (FF #s 34-38). In particular, the IEP notes that his difficulties with executive functioning contribute to inattentiveness, misplacing assignments, and late and missing assignments. (FF # 37). These executive functioning difficulties are similar to those acknowledged in his February 2024 IEP. (FF #s 10-11, 37). However, this IEP also includes a detailed records review of documentation specific to Student's executive functioning needs, such as his Private December 2024 Evaluation and his Connors-4 Short Scales assessment. (FF # 37). Not only does the IEP include a records review summarizing this information, but it also added new accommodations to address recommendations from the Private December 2024 Evaluation and Student's diagnosis of hip dysplasia, which was exacerbating his executive functioning challenges. (FF #s 37, 42-43). In addition to adjusting accommodations given his

increased executive function needs, this IEP also added 60 minutes weekly of indirect special education services provided by Case Manager given Student’s increasing needs. (FF # 44).

Student’s two annual goals remain focused on his executive functioning challenges, particularly task initiation and organization. (FF #s 22-27, 40). Regarding the recommendation from the Private December 2024 Evaluation—that “executive functioning tutoring . . . with an emphasis on teaching compensatory strategies, rather than just assistance with assignment completion” should be incorporated into Student’s IEP—the February 2025 IEP accounts for this feedback. (FF #s 22-27). Indeed, Student’s annual goals each involve teaching compensatory strategies, such as using a specific organizational tactic, to support Student’s executive functioning needs. (FF #s 22-27). Moreover, Student’s IEP includes services and interventions, such as Learning Lab and access time, geared toward working on compensatory executive functioning strategies (FF #s 98, 130).

For these reasons, the CDE finds and concludes that District considered Student’s executive functioning needs, as required by 34 C.F.R. § 300.324(a).

#### Statement of Special Education Services

Parent has the same concerns regarding the statement of special education services for both the February 2024 and February 2025 IEPs. (FF #s 15-20). Indeed, these sections are identical in both IEPs. (FF # 18). Therefore, for the same reasons established in Section 1.B.ii above, the CDE finds and concludes that District included a statement of the special education and related services, as required by 34 C.F.R. § 300.320(a)(4).

#### Measurable Annual Goals and Lack of Expected Progress

The same requirements of 34 C.F.R. § 300.320(a)(2) described above apply here. Parent is concerned that the February 2025 IEP included the same self-determination goals as the February 2024 IEP, despite Student’s lack of progress, and that these goals were still insufficient to meet Student’s executive functioning needs. (FF #s 40-41).

Student’s IEP team updated his annual goals in February 2025 by removing the social/emotional goal that Student had mastered. (FF #s 26-27, 40). Student’s IEP team kept his two existing goals in self-determination because he was still making progress but had not yet mastered those goals. (FF #s 22-25, 40). To further support Student in achieving his goals, Student’s IEP team added additional accommodations recommended by the Private December 2024 Evaluation given Student’s academic and medical needs. (FF #s 42-43). The IEP team also increased Student’s service minutes: he received an additional 60 minutes per month of indirect specialized instruction from Case Manager. (FF # 44). It is permissible to maintain the same goals between IEPs if a student is still making progress toward goals and especially if the IEP team otherwise adjusts IEP supports to address lack of mastery. (FF # 41). At the point of development in February 2025, Parents were “pleased with [Student’s] progress. He is doing a great job overcoming some obstacles.” (FF # 39). Student was passing all classes, except for Earth Space Geography, and was on track to graduate. (FF # 36).

For these reasons, the CDE finds and concludes that District developed measurable annual goals, as required by 34 C.F.R. § 300.320(a)(2).

#### **D. August 2025 IEP**

##### **i. Legal Obligation to Review and Revise IEPs**

The IDEA requires school districts to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances. *Endrew F.*, 580 U.S. at 399. 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’s procedures contemplate that a student’s IEP may need to be reviewed and revised more frequently to address “information about the child,” “the child’s anticipated needs,” and any lack of expected progress toward the annual goals. *Id.*; see *Endrew F.*, 580 U.S. at 400.

##### **ii. Review and Revision of the February 2025 IEP**

As a threshold matter, the CDE finds that District had an affirmative duty to review and revise Student’s February 2025 IEP to address information about Student, his anticipated needs, and his lack of expected progress on annual IEP goals by May 2025. (FF #s 46-56); see 34 C.F.R. §§ 300.324(a)(4)-(6), (b); *Endrew F.*, 580 U.S. at 400. By this point, Student was making insufficient progress on his second self-determination goal, had accumulated more missing assignments than in prior semesters, and required intense at-home support to pass his classes. (FF #s 48-49, 50-56). Parents raised these concerns with School in May 2025. (FF # 56).

The IEP team reviewed and revised Student’s February 2025 IEP on August 19, 2025, resulting in Student’s August 2025 IEP. (FF # 57). Parents are concerned that the August 2025 IEP does not address Student’s anticipated executive functioning needs and his lack of expected progress toward annual goals and in general education. *Reply*, p. 4.

##### **Student’s Anticipated Executive Functioning Needs**

Parent is concerned that the August 2025 IEP does not adequately consider Student’s executive functioning needs, in part because School rejected Parents’ requests for a one-on-one paraprofessional and designated reteaching time from general education teachers. (FF #s 62-65). Parents are also concerned that the IEP does not address Student’s executive functioning needs because the “Google Doc” strategy outlined in Student’s accommodation has not been effective. (FF #s 68-69, 137-140).

In August 2025, six months after the development of the February 2025 IEP, Student’s IEP team overhauled his IEP after Parents raised concerns that the IEP was not designed to support Student’s executive functioning needs, evidenced primarily by Student’s unprecedented number

of missing assignments in May 2025 and his observed regression. (FF #s 55-79). Attorneys for both Parents and District attended this meeting, as did Director. (FF # 57). This IEP includes an updated medical history section documenting Student's hip dysplasia. (FF # 59). This IEP also includes three new goals designed to better support Student's executive functioning: two in self-determination and one in social/emotional wellness. (FF #s 66-72). Moreover, the IEP team revised the accommodations section to group accommodations based on the type of executive functioning support. (FF #s 73-74). Not only do all accommodation groupings in the IEP address executive functioning, but the accommodation section features a distinct group titled "executive functioning strategies." (FF # 74). Regarding Parent's request for a one-on-one paraprofessional, District issued an embedded PWN explaining that this type of support was unnecessary for Student's executive functioning needs. (FF # 62). Indeed, Student agreed that he would not have wanted a dedicated paraprofessional. (FF # 62). Similarly, Parent's request for designated reteaching time was unnecessary because Student's IEP already adequately accounted for reteaching in Student's accommodations and service minutes. (FF #s 63-64). Still, Parents acknowledge that the IEP team "concluded with new strategies to help with [Student's] executive function needs, such as the use of a Google Calendar and Google Doc with hyperlinks to track assignments." (FF # 61).

While the accommodation of tracking assignments using a Google Doc has not been effective for Student, this does not render Student's IEP substantively inadequate; indeed, the inquiry is whether the IEP was "objectively reasonable" at the time and does not require retroactive perfection. *See Roland M.*, 910 F.2d at 992. It was reasonable, at the time of development, for Student's IEP team to include an accommodation directed toward task management: one of Student's main executive functioning difficulties. (FF #s 50-55, 68-69, 73-74). Only about three months passed between the development of the August 2025 IEP on August 19, 2025, and the filing of this state complaint on December 5, 2025. (FF # 57). Especially given the beginning-of-year timeframe of this limited three-month period, it is foreseeable that a new accommodation might not have been immediately effective. (FF #s 137-140). Even though this accommodation has not yet come to fruition as a useful strategy, the IEP was still developed, as Parent's recognized, to help with Student's executive functioning needs. (FF # 61).

For these reasons, the CDE finds and concludes that Student's February 2025 IEP was reviewed and revised in August 2025 to address information about Student and his anticipated executive functioning needs as required by 34 C.F.R. § 300.324(b)(ii)(A)-(E).

### Lack of Expected Progress

Parent is concerned that Student's August 2025 IEP does not address lack of expected progress toward annual goals and in general education. (FF # 67).

Student's August 2025 IEP features three new and detailed IEP goals in the areas of self-determination and social/emotional functioning to address Student's insufficient progress toward his February 2025 IEP goals. (FF #s 66-72). The first self-determination goal is measurable, based on high school standards, and includes two separate objectives with concrete strategies

that Student can use to work toward the goal. (FF #s 68-69). This goal addresses Student's lack of progress on his previous self-determination goal related to work completion. (FF #s 46-49, 68-69). This new goal emphasizes specific compensatory strategies and is broken down into three objectives with discrete coping strategies for Student to use listed in each. (FF #s 68-69). The second self-determination goal is measurable, based on high school standards, and follows a two-step structure to encourage self-advocacy in the event Student cannot complete an assignment without help. (FF #s 70-71). This goal is also formulated to address Student's lack of progress on his previous self-determination goal related to self-advocacy. (FF #s 46-49, 70-71). This goal is broken into two sequential steps and is therefore better scaffolded for Student. (FF #s 70-71). Finally, the social/emotional wellness goal is measurable, based on high school standards, and emphasizes the specific strategies that Student can apply to regulate his stress levels. (FF # 72). Student's February 2025 IEP did not include a social/emotional wellness goal, but the IEP team added back a goal in this area to address Student's needs and lack of progress. (FF #s 40, 54-56, 72). As of November 2025, Student was making progress on these annual goals, including all sub-objectives, was earning passing grades in classes, and was on track to graduate in May 2026. (FF #s 1, 80-84).

For these reasons, the CDE finds and concludes that the February 2025 IEP was reviewed and revised in August 2025 to address lack of expected progress as required by 34 C.F.R. § 300.324(b)(ii)(A).

**Conclusion to Allegation No. 2: District ensured that staff had access to and an understanding of the responsibilities for implementing Student's IEP, as required by 34 C.F.R. § 300.323(d). District provided services and accommodations in conformity with Student's IEP, and thus implemented the IEP as required by 34 C.F.R. § 300.323(c). District complied with the law.**

#### **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, Student’s February 2024, February 2025, and August 2025 IEPs were each accessible to Case Manager and Student’s general education teachers, and all providers understood their responsibilities for implementing Student’s IEPs. (FF #s 88-95). Case Manager was involved in the development of all IEPs. (FF #s 88, 92, 94). Science Teacher was involved in the development of Student’s February 2025 IEP. (FF # 93). English Teacher was involved in the development of Student’s August 2025 IEP. (FF # 95). Case Manager provided IEP snapshots, including information on service delivery and accommodations, to all of Student’s general education teachers. (FF #s 89-90, 92). Student’s general education teachers also independently accessed and familiarized themselves with Student’s IEPs on Frontline. (FF #s 90, 93-95). Student’s Case Manager and general education teachers also collaborated frequently to discuss implementation of Student’s IEPs. (FF #s 91, 93-95).

For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

### **C. IEP Implementation: Specialized Instruction and Accommodations**

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?

i. *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 IEP versus those made available to Student. 34 C.F.R. § 300.323(c)(2).

*Specialized Instruction*

Parent and Student are concerned that Student’s “Learning Lab” class did not provide the 235 minutes of direct specialized instruction from a special education teacher required by Student’s IEP between December 2024 and November 2025. (FF #s 96-97).

Special education means “specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.” 34 C.F.R. § 300.39(a)(1); *see Roaring Fork Pub. Schs.*, 124 LRP 34383 (SEA CO 12/26/2023). Specially designed instruction must meet the child’s unique needs and ensure the child’s access to the general education curriculum by adapting “as appropriate to the needs of an eligible child . . . the content, methodology or delivery of instruction.” *Id.* at § 300.39(b)(3). Working independently on general education assignments constitutes specially designed instruction if such work is directly tied to a student’s IEP needs. *See Roaring Fork Pub. Schs.*, 124 LRP 34383 (SEA CO 12/26/2023); *Denver Pub. Schs.*, 125 LRP 23245 (SEA CO 11/27/2022).

Here, under the February 2024 and February 2025 IEPs, Student was to receive 235 minutes per week of direct instruction outside of the general education classroom to address his self-determination goals. (FF # 97). In August 2025, Student’s IEP team specified that Student receive “individualized 1:1 direct instruction in each Learning Lab period” to work on his self-determination goals with Case Manager. (FF # 75). Case Manager is a licensed special education teacher. (FF # 96). From Case Manager’s perspective, that language was added to reflect the amount of individualized attention he was already giving Student; however, from Parent’s and Student’s perspective, that language was needed to ensure that Student received any individualized attention from Case Manager. (FF # 76).

Student was enrolled in Learning Lab for a total of 235 minutes per week between December 2024 and November 2025. (FF # 98). Learning Lab is a small class of no more than eight students,

and it is designed to support students with executive functioning, rather than math or literacy, goals. (FF #s 98-99, 103). From Student’s perspective, Learning Lab operated as a chaotic “study hall” where Student would use the time to finish work and rarely received direct attention from Case Manager. (FF # 100). Student acknowledged that *when* Case Manager worked with him on specific executive functioning strategies, it was beneficial. (FF #s 101-102). However, from Student’s perspective, Case Manager was too spread thin to provide Student the individualized attention he needed. (FF #s 100-102). From Case Manager’s perspective, he directly supported Student’s goals in Learning Lab through providing one-on-one and small group instruction on executive functioning strategies—such as using Google Calendar and phone alerts to manage time—and working with Student to develop work completion plans using the Google Doc tracker. (FF #s 103-104).

The Record supports that Student received specially designed instruction and worked directly on his goals during Learning Lab, even when completing independent work. (FF #s 101, 102, 105-107). Indeed, Student’s two self-determination goals on his February 2024 and February 2025 IEPs involved developing coping strategies to start and finish written tasks and keeping work organized using a Zip file. (FF #s 22, 24). As outlined in the first self-determination goal, Case Manager would check in with Student and provide prompts to support Student’s task initiation. (FF #s 22, 102, 105-106). Case Manager also worked with Student to develop coping strategies to start and finish tasks, such as by providing direct instruction on using alarms and breaking assignments into manageable components. (FF #s 102, 103-106). For Student’s second self-determination goal, Case Manager provided regular organizational checks to promote Student’s use of his Zip file. (FF #s 24, 105-106). Student’s August 2025 IEP goals emphasize that Student should be able to “independently” apply and “independently” select executive functioning tools to “independently” complete assignments, accurately self-assess his ability to complete assignments independently, and “appropriately” advocate for assistance if needed. (FF #s 68-71). These self-determination goals emphasize individual effort. (FF #s 68-71). As such, even if Learning Lab operates more as a “study hall,” working independently—with support from Case Manager when needed—nonetheless represents specially designed instruction and practice on Student’s executive functioning goals. (FF #s 100-107).

The Record also supports that Case Manager regularly instructed Student on executive functioning skills such as scheduling self-regulation breaks, developing step-by-step plans for assignment completion, and brainstorming appropriate executive functioning tools. (FF #s 101-107)

For these reasons, the CDE finds and concludes that District provided Student 235 minutes of weekly direct instruction from a special education teacher--Case Manager—during his Learning Lab period. As such, there was no shortfall in the implementation of services required by Student’s IEPs.

### Accommodations

Parent is concerned that general education teachers were not implementing three accommodations between December 2024 and November 2025: checks for understanding, pre-teaching and reteaching, and encouragement of executive functioning skills. (FF # 108).

There was no shortfall in the implementation of accommodations at-issue in this investigation. While, from Student's perspective, different teachers provided these accommodations with varying degrees of consistency, effectiveness, and enthusiasm, the Record clearly supports that Student's general education teachers provided the at-issue accommodations to Student regularly and as needed between December 2024 and November 2025. (FF #s 109-140). Indeed, accommodations are not required to be provided at all times regardless of need. (FF #s 108, 110, 112, 122, 124, 131, 132). As such, there was no shortfall in the implementation of accommodations required by Student's IEPs.

#### ii. Prong 2: Was the Shortfall Material?

Because there was no shortfall in the provision of services and accommodations required by the IEP, the CDE does not need to address the second question of whether any shortfall was material.

For these reasons, the CDE finds and concludes that District complied with its implementation obligations under 34 C.F.R. § 300.323(c).

### 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 27th day of February, 2026.



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Elizabeth "EP" Stonehill  
State Complaints Officer

## APPENDIX

### Complaint, pages 1-15

#### Response, pages 1-9

- Exhibit A: IEPs
- Exhibit B: Notices of meetings
- Exhibit C: N/A
- Exhibit D: N/A
- Exhibit E: Student's schedule, grades, and attendance records
- Exhibit F: Progress monitoring data
- Exhibit G: Service logs
- Exhibit H: February 25, 2025 Evaluation Report
- Exhibit I: December 5, 2024 Evaluation Report
- Exhibit J: District calendar
- Exhibit K: District policies
- Exhibit L: Correspondence
- Exhibit M: Contact information
- Exhibit N: Verification of delivery

#### Reply, pages 1-6

- Exhibit 1: Emails
- Exhibit 2: May 2025 meeting documentation
- Exhibit 3: March 2023 IEP
- Exhibit 4: Parent feedback on draft August 2025 IEP
- Exhibit 5: Executive functioning coach resources

#### Telephone Interviews

- Case Manager: February 3, 2026
- Science Teacher: February 3, 2026
- Math Teacher: February 3, 2026
- English Teacher: February 3, 2026
- Director: February 3, 2026
- Student and Parents: February 4, 2026
- CDE Specialist: February 9, 2026