

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

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**State Complaint SC2026-506**  
**East Central BOCES**

**DECISION**

**INTRODUCTION**

On January 7, 2026, the Parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> filed a state complaint (“Complaint”) against East Central BOCES (“BOCES”) and concerning one of its member school districts (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified two allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

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

**RELEVANT TIME PERIOD**

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after January 7, 2025. Information prior to January 7, 2025 may be considered to fully investigate all allegations.

**SUMMARY OF COMPLAINT ALLEGATIONS**

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

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

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

1. BOCES did not conduct a comprehensive evaluation of Student between September and November 2025, because it did not assess Student in all areas related to the suspected disability—specifically dyslexia—as required by 34 C.F.R. § 300.304(c)(4).
2. BOCES did not properly determine Student’s eligibility and educational need at a meeting on November 20, 2025 because it did not ensure that information from a variety of sources—specifically the independent educational evaluation obtained by Parent and provided to District in August 2025—was documented and carefully considered, as required by 34 C.F.R. §§ 300.306(c)(1), 300.502(c).

### **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 nine years old and resides within the boundaries of District, a member school district of the BOCES. *Exhibit A*, p. 1. During the 2025-2026 school year, Student attends third grade at a District school (“School”). BOCES is responsible for providing a free appropriate public education (“FAPE”) to all IDEA-eligible children with disabilities attending a school in its member school districts. ECEA Rule 2.03.
2. Student is a slow reader and lacks stamina for longer tests. *Interview with School’s Title 1 Coordinator (“Coordinator”)*. Student is very active and enjoys video games and sports. *Id.* He likes math, is a hard worker and a good problem solver. *Interviews with Coordinator and Parent*.
3. Student’s IEP was developed in February 2025 and amended in December 2025 (the “IEP”). *Exhibit A*, pp. 1-22. Student is eligible for special education services as a child with a speech and language impairment. *Id.* at p. 11. Due to articulation errors, teachers and peers frequently ask Student to repeat himself. *Id.* at p. 14. Student also receives “inclusion and pull out services for reading” through Title 1. *Id.* at p. 13.
4. Student required “direct speech services to address residual speech sound errors” for 15 minutes per week. *Id.* at pp. 4, 8. As of December 18, direct services were ended via an amendment. *Id.* at p. 18, 21. Student still requires 10 minutes per month of consultative support from a speech and language pathologist. *Id.* at p. 18.

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

## **B. BOCES Policy and Practice – Evaluations**

5. BOCES has a Comprehensive Plan for the Provision of Special Education (“Comprehensive Plan”) that lays out how BOCES ensures compliance with state and federal special education regulations. *Exhibit M*, pp. 9-502.
6. Per the Comprehensive Plan, BOCES assures that, for eligible children, reevaluations occur at specified times, including “[w]hen there is consideration of changing the disability category.” *Id.*, at pp. 41-42. When conducting reevaluations, IEP teams are expected to review existing evaluation data, including (1) “[e]valuations and information provided by the parents”; (2) classroom, local, or state assessments and classroom-based observations; and (3) “observations by teachers and related service providers.” *Id.* at p. 42.
7. The Comprehensive Plan also includes additional procedures and documentation for consideration of a specific learning disability. *Id.* at pp. 36-37. First, the evaluation must include observational information “that documents the child’s academic performance in the area(s) of difficulty.” *Id.* at p. 36. This information can be collected before or during the evaluation. *Id.* It must include “a description of the child’s relevant behavior” and be “conducted in the child’s learning environment.” *Id.*
8. Second, the evaluation must include a “body of evidence that demonstrates both academic skill deficit(s) and insufficient progress in response to scientific, research-based intervention(s).” *Id.* This body of evidence (“BoE”) includes “results of diagnostic/prescriptive assessments,” descriptive analysis of classroom work, results of “classroom/district/state assessments” and progress monitoring data from response to intervention (“RTI”) programming. *Id.* at pp. 36-37.
9. Third, the evaluation must include documentation of the child’s participation in RTI that can come from “an intervention process that occurred prior to the referral process or as part of the referral process.” *Id.* at p. 37. The documentation must include the instructional strategies used and student-centered data collected from “repeated assessments of achievement at reasonable intervals.” *Id.*
10. Fourth, the evaluation must include documentation “that the multidisciplinary team considered any educationally relevant medical findings.” *Id.* Finally, it must include documentation that parents were notified of (1) the “State’s policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided”; (2) “[s]trategies for increasing the child’s rate of learning”; and (3) “[r]esults of repeated assessments of the child’s progress.”
11. These procedures are consistent with the legal requirements for a special education evaluation of a student with a suspected learning disability. 34 C.F.R. §§ 300.307-300.310; ECEA Rule 4.02(5), (7); *See, also*, CDE, *Specific Learning Disability Guidelines*, July 2023, available at: [www.cde.state.co.us/cdesped/guidelines\\_sld\\_draft\\_2019-02-25](http://www.cde.state.co.us/cdesped/guidelines_sld_draft_2019-02-25).

12. BOCES trains all new special education staff every fall, including a dedicated training on specific learning disabilities (“SLD”). *Interview with BOCES’s director of special education (“Director”).* Each August, School’s special education teacher (“Teacher”) is responsible for training all new special education teachers in BOCES on administering the Woodcock Johnson Test of Achievement (“WJ-V”), interpreting data and writing reports. *Id.* BOCES also has a BoE form schools can use to gather the required information, which includes specific sections for tracking interventions used and their results, the results of norm-referenced measures and observational findings. *Exhibit Q, pp. 55-58.*

### **C. School’s Title 1 Supports**

13. Title 1 supports—a general education intervention that can be provided in the areas of reading, writing and/or math—are provided to students who are at-risk or struggling in the classroom. *Interviews with Coordinator and Teacher.*

14. At School, Coordinator has collaborative meetings with staff from each grade level to review student scores on the Dynamic Indicators of Basic Early Literacy Skills (“DIBELS”), a classroom reading assessment, as well as the building-wide NWEA: MAP assessments that are administered three times per year. *Id.* Those test results and other data are used to identify students who require additional support and determine how much support they require. *Interview with Coordinator.*

15. Students with yellow (below benchmark) DIBELS scores and average MAPs scores might only participate in an additional inclusion reading group in the classroom. *Id.* Students with lower scores, like red (well below benchmark) DIBELS scores, or who do not make progress, might receive additional pullout instruction. *Id.* Students who still are not making adequate progress toward grade-level standards might be moved to a smaller pullout group or given 45 minutes per day of pullout instruction, instead of 25 minutes. *Id.*

16. At School RTI means the most intensive level of Title 1 support. *Id.* If a student at School still is not making progress or their scores are decreasing, they are referred to the RTI process. *Id.* In RTI, School ensures the student is receiving supports to target the areas of concern and collects more detailed data than is collected for all students receiving Title 1 supports. *Id.* If a student does not make appropriate progress in RTI, then they are referred for a special education evaluation. *Id.*

### **D. Student’s Title 1 Supports**

17. Student started receiving Title 1 reading supports in first grade. *Id.* Throughout that year, he worked with Coordinator using mCLASS, a targeted program created based on his DIBELS scores. *Id.* The program created nine days of lessons, followed by additional testing to develop the lessons for the next nine days. *Id.* At that point his MAPs scores were in the average range—53<sup>rd</sup>, 36<sup>th</sup>, 28<sup>th</sup> percentile—but his DIBELS scores remained yellow all year. *Id.; Exhibit K, p.2.* During that time, he was also participating in an inclusion group in the

classroom where a Title 1 provider retaught classroom instruction to a small group. *Interview with Coordinator*.

18. His MAPs reading scores dropped to the ninth percentile at the start of second grade in the fall of 2024, when they stopped reading the test to him, but returned to the average range in the winter and spring, 23<sup>rd</sup> and 15<sup>th</sup> percentile. *Id.*; *Exhibit K*, p. 2. His DIBELS scores were red all year. *Id.* Student continued receiving pullout supports using mCLASS throughout the first three quarters of second grade. *Interview with Coordinator*. During the final quarter, the Title 1 provider moved Student and the others in his group to a different program to work on reading fluency based on the needs she was seeing. *Id.*
19. During the 2024-2025 school year, School introduced a new reading curriculum for all general education students to strengthen phonics throughout the building. *Id.* Instead of doing inclusion groups inside the classroom, a Title 1 provider supported classroom teachers for 30 minutes per day while they taught the new lessons. *Id.* Title 1 providers were there to help with the transition and support with less familiar reading rules. *Id.*
20. At the start of third grade, Student was in a group of five students meeting daily for 25-30 minutes. *Exhibit N*, p. 76. This group, led by a Title 1 paraprofessional (“Paraprofessional”), again used mCLASS to develop lessons. *Interviews with Coordinator and Paraprofessional*. While Student made progress with phonemic awareness, he did not make progress on reading fluency or comprehension. *Interview with Paraprofessional*.
21. Student’s scores on the DIBELS benchmark assessments remained red this school year. *Exhibit K*, p. 2. Student’s scores on the MAPS assessment also fell from the start of the 2025-2026 school year—24<sup>th</sup> percentile—to the middle—6<sup>th</sup> percentile. *Id.* After this low middle of the year score, Coordinator would have referred Student for RTI. *Interview with Coordinator*.
22. On November 25, as Student’s “progress monitoring data [had] been underwhelming,” District planned to adjust his Title 1 supports to replace one type of instructional programming with another which “follows more of the Orton-Gillingham principles.” *Exhibit N*, p. 76. The new program started in January 2026. *Id.* at p. 80; *Interview with Coordinator*.
23. As of January 2026, Student continued to have a significant reading deficiency. *Exhibit K*, p. 3. He could “produce the primary common letter sounds, but [did] not blend the sounds into words.” *Id.*

#### **E. Private Evaluation**

24. In August 2025, Parent privately obtained an independent educational evaluation of Student’s learning and speech (“Private IEE”). *Exhibit 2*, pp. 2-14, 20-27. The Private IEE resulted in a diagnosis of dyslexia and an articulation delay. *Id.* at p. 2. Screening questions also indicated potential concerns with Student’s attention/behavior regulation, so the Private IEE recommended further evaluation in those areas. *Id.*

25. Student's classroom teacher reported that he was "well below grade level" on a standardized assessment. *Id.* He struggled with "decoding, more advanced phonemic awareness, sight words (or heart words), fluency and phrasing." *Id.* Student also had low reading comprehension, even when reading at his level. *Id.*
26. The Private IEE included the Comprehensive Test of Phonological Processing. *Id.* at pp. 3-4. Student scored in the below average range for phonological awareness, or "the ability to pay attention to and manipulate sounds of spoken language." *Id.* At the 2<sup>nd</sup> percentile, Student's verbal working memory, or his "ability to keep verbal information active in short-term memory" was also below average. *Id.* at p. 4. This can impact the ability to decode new words or comprehend longer passages. *Id.* Student's rapid automatized naming, related to reading fluency, was also in the below average range. *Id.*
27. The Private IEE also included the Wechsler Individualized Achievement Test. *Id.* at pp. 4-5. Student's receptive vocabulary, or ability to match pictures to spoken words, was in the average range. *Id.* at p. 4. His listening comprehension was also in average range. *Id.* These were relative strengths. *Id.*
28. Student's single word reading accuracy and pseudoword decoding skills were below average. *Id.* at p. 5. Together, this suggests difficulties reading unfamiliar words. *Id.* Reading comprehension was also below average and generally lower than his listening comprehension, "indicating that his difficulties with reading accuracy and fluency limit" his comprehension. *Id.*
29. Student's spelling was also below average and included "dysphonetic errors, meaning that his misspelled words would not be pronounced like the target" indicating an "insecure knowledge of phonics rules." *Id.* Student's math composite was in the average range, although his math fluency, or efficiency with simple math facts, was below average. *Id.*
30. The Private IEE also included the Test of Word Reading Efficiency and Gray Oral Reading Test to assess Student's reading fluency. *Id.* Student scored at the first and second percentile across both tests. *Id.*

#### **F. Parent's Request for Reevaluation**

31. On August 13, Parent gave School's principal ("Principal") and Student's third grade teacher ("Classroom Teacher") the results of the learning portion of the Private IEE. *Exhibit 1*, p. 1. She asked to update his IEP to reflect the dyslexia diagnosis, once the speech portion of the evaluation was completed in September. *Id.*
32. Principal responded that BOCES was treating Parent's email like a request to evaluate, so Teacher would be in touch. *Id.* at p. 2. On September 5, Parent signed and returned consent for reevaluation in the areas of general intelligence, communicative status and academic performance. *Exhibit F*, pp. 1-3.

33. Parent sent the speech portion of the Private IEE to Teacher, Classroom Teacher and Principal on September 16 and asked about the next steps for BOCES' evaluation. *Exhibit 1*, p. 3. An eligibility determination meeting was scheduled for November 20. *Id.* at p. 4.

#### **G. First Reevaluation**

34. On November 14, Teacher sent Parent a draft of BOCES' reevaluation along with standardized test results and records related to Title 1 supports. *Exhibit 1*, pp. 15, 28-36; *Exhibit B*, pp. 1-9.

35. BOCES sent Parent "finalized" documents on December 3, after the eligibility determination. *Exhibit N*, p. 85. This version of the reevaluation included a summary of the Private IEE and Student's response to Title 1 supports, which BOCES required Teacher to include. *Exhibit B*, pp. 13-14, 20-22; *Exhibit N*, pp. 84-85.

36. On December 8, Parent brought concerns about the evaluation process to District's superintendent ("Superintendent") who contacted Director. *Exhibit N*, pp. 92, 93, 106. On December 11, Director sent Parent a revised version of the reevaluation ("First Reevaluation") that removed references to the Private IEE. *Id.* at p. 114; *Exhibit B*, pp. 26-35. The First Reevaluation included the results of BOCES testing plus the summary of Student's Response to Title 1 supports. *Exhibit B*, pp. 1-9, 26-35.

37. BOCES' school psychologist ("School Psychologist") evaluated Student's cognitive abilities with the Wechsler Intelligence Scale for Children. *Exhibit B*, pp. 1-2. Student's scores in four out of five areas were average, as was his overall performance. *Id.* His relative weakness was his working memory, which fell in the low average range, particularly with information presented verbally (below average) rather than through pictures (average). *Id.*

38. BOCES' speech and language pathologist ("SLP") tested Student's communication abilities. *Id.* at p. 2. The results indicated abilities within normal limits in all areas. *Id.* He scored in the average range on a standardized assessment of articulation. *Id.* Classroom Teacher reported no concerns with receptive or expressive language and said she could "understand him most of the time in the classroom setting." *Id.*

39. Teacher administered selected subtests of the WJ-V on October 27. *Id.* at pp. 3-9. Student scored in the average range on both the letter-word identification and word attack subtests. *Id.* at pp. 3-4. These are both untimed tests. *Interview with Teacher.*

40. Although the Private IEE identified concerns in the areas of reading fluency and comprehension, Teacher did not conduct any tests in those areas because, based on the BoE forms, Student only received Title 1 supports in basic reading skills. *Id.* Teacher's understanding of BOCES' procedure was that she could only evaluate in areas where a student was receiving Title 1 supports, because a BoE is required. *Id.* However, BOCES Comprehensive Plan allows for the BoE to be collected during the evaluation and Student was

receiving Title 1 supports in reading fluency. *Interviews with Coordinator and Paraprofessional; Exhibit K*, pp. 29-30; *Exhibit M*, p. 37.

41. Student scored in the low range on math calculation due to his tendency to solve problems with the wrong operation—for instance multiplying five times two when the problem asked him to add. *Id.* at pp. 4-5. Student scored in the average range on other math subtests. *Id.*
42. Student scored in the low average range for spelling and written language samples. *Id.* at pp. 6-7. He scored in the average range for sentence writing fluency (quickly writing sentences with a picture prompt and three specific words) and sentence writing accuracy (writing dictated sentences). *Id.* at p. 7. He had at least one misspelled word in each sentence. *Id.* Student scored in the average range for spelling sounds, meaning his ability to write down words and sounds that were spoken aloud. *Id.*
43. Per the summary of the BoE, Student had “persistent gaps between expected and actual performance despite consistent, research-based instruction.” *Exhibit B*, p. 21. His significant deficits in word reading fluency and nonsense word fluency persisted across three different interventions each “showing limited progress over time.” *Id.* Student’s standardized scores on District testing were also consistently below grade-level expectations. *Id.* Together, “these data points reflect insufficient growth across multiple interventions and assessment types, supporting concerns related to a significant basic reading skill deficit.” *Id.* at pp. 21-22.
44. Student also had persistent “significant” gaps in written expression after two different interventions. *Id.* at p. 20. “[D]espite targeted instruction, [Student had] not made adequate progress and continue[d] to exhibit needs in written expression.” *Id.*
45. The First Reevaluation does not include any observations of Student. *Id.* Teacher does not conduct classroom observations. *Interview with Teacher*. Instead, she relies on Title 1 providers to collect data for the BoE. *Id.* The BoE forms for Student do not include any observations. *Exhibit K*, pp. 32, 36. The First Reevaluation does not include Parent or classroom teacher input. *Exhibit B*, pp. 26-35.

#### **H. First Eligibility Determination**

46. On November 20, a multidisciplinary team (“MDT”) including Parent, Teacher, Classroom Teacher, the child find coordinator for BOCES, SLP, School Psychologist, a school psychology aide, and Principal met to consider Student’s continuing eligibility. *Id.* at p. 11. Parent was provided with BOCES’ summary of the BoE for Student after this meeting. *See*, FF # 34-36.
47. The MDT reviewed BOCES’ testing, with each provider addressing their evaluations. *Interviews with Parent and Teacher*. The MDT did not discuss the Private IEE or Student’s BoE from Title 1. *Id.; Response*, p. 4; *Exhibit N*, pp. 85, 92, 130.
48. The MDT considered whether Student was eligible as a child with an SLD using the eligibility checklist. *Interview with Teacher; Exhibit D*, pp. 5-6. On the second question, the MDT

determined that Student could receive reasonable benefit from general education alone. *Id.* As such, they did not continue with the rest of the checklist. *Id.*

49. The MDT did not discuss any reasons Student might be eligible or discuss the discrepancy between the Private IEE and BOCES' untimed WJ-V subtests. *Interviews with Teacher and Parent.* Students with dyslexia require more time and effort to decode words than their peers, and timing is incredibly important for reading comprehension. *Interview with CDE Content Specialist.* Even if a student can decode words, a lack of fluency or automaticity can significantly impact comprehension. *Id.* When the brain is spending too much effort decoding the words, it cannot simultaneously process and comprehend the words. *Id.* Thus, a discrepancy between the results of timed and untimed tests of basic reading skills is significant. *Id.*
50. Parent disagreed with the eligibility determination and tried to bring up the Private IEE. *Interviews with Teacher and Parent.* The MDT did not discuss her concerns. *Id.* Instead, Parent was instructed to submit a written statement that could be added to Student's file. *Id.*
51. Immediately after the meeting, Parent sent Principal and Teacher a written statement explaining her disagreement with the MDT's decision. *Exhibit 3*, pp. 3-5. The letter highlighted the contradiction between the Private IEE and BOCES' testing. *Id.* Parent also noted that BOCES did not evaluate Student in the areas of reading fluency and comprehension or phonological processing, despite scores in the second and fifth percentile in the Private IEE. *Id.* Parent specifically noted that Student's difficulties with reading fluency and comprehension impacted his ability to access content in all subjects. *Id.*

#### **I. Second Reevaluation**

52. After reviewing Parent's concerns, Director also proposed conducting additional testing. *Exhibit N*, p. 116. Parent objected to Student missing more instructional time for additional testing. *Id.* at pp. 114-116.
53. BOCES concedes that it did not include the Private IEE in the First Reevaluation. *Response*, p. 10. Recognizing that error, BOCES issued a prior written notice ("PWN") on December 11, 2025 reinstating the IEP "due to procedural errors at the eligibility meeting held on November 20, 2025." *Exhibit C*, p. 2. This decision was made based on a review of the Private IEE, the First Reevaluation, and "Response to Intervention Data" and consultation with school staff and parents. *Id.* The IEP, which only included speech services, would be implemented until another eligibility meeting was held. *Id.*; *Exhibit N*, p. 114.
54. BOCES also sent Parent prior notice and consent for another reevaluation on December 11. *Exhibit F*, pp. 4-6. Student would be evaluated in the areas of general intelligence, communicative status, academic performance, social and emotional status and health. *Id.*

55. This additional assessment was needed to “review prior assessments, including” the Private IEE and to assess the attention difficulties highlighted in the Private IEE. *Id.* Parent signed and returned the consent for reevaluation on December 15. *Id.*
56. The reevaluation would be a review of existing records and teacher and parent screeners. *Exhibit N*, pp. 114, 131. The reevaluation would not require Student to participate in any additional testing. *Id.* Student was also placed on a Section 504 Plan to address assistive technology and access needs related to reading. *Id.* at pp. 76-77.
57. On January 27, 2026, BOCES convened a second eligibility meeting to review this reevaluation (“Second Reevaluation”). *Response*, p. 6; *Exhibit N*, pp. 192-193; *Exhibit G*, p. 1. At that meeting, BOCES determined that it required additional data on Student’s response to the new Title 1 program that was implemented in January. *Response*, p. 6. They agreed to reconvene in March. *Id.*; *Interview with Director*.
58. The Second Reevaluation included everything from the First Reevaluation, a summary of the Private IEE, an updated summary of the BoE from Title 1, an evaluation of Student’s behavioral and emotional functioning, and a health review. *Exhibit B*, pp. 36-51. It did not include an observation of Student in a literacy setting. *Id.*

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: BOCES did not evaluate Student in all areas of suspected disability in fall 2025, as required by 34 C.F.R. § 300.304(c)(4). This resulted in a denial of FAPE.**

#### **A. Legal Requirements: Evaluation Procedures and Additional Requirements**

The IDEA requires an evaluation to assess students “in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.” 34 C.F.R. § 300.304(c)(4). “This is not an exhaustive list of areas that must be assessed. Decisions regarding the areas to be assessed are determined by the suspected needs of the child.” 71 Fed. Reg. 46,643 (Aug. 14, 2006). The evaluation itself must be “sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.” 34 C.F.R. § 300.304(c)(6). In conducting the evaluation, school districts must “gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining” the “content of the child’s IEP, including information related to enabling the child to be involved in and make progress in the general education curriculum.” *Id.* § 300.304(b)(1)(ii).

As additional requirements for reevaluations, school districts must review any existing evaluation data on the child, including (1) evaluations and information provided by the parent of the child,

(2) current assessments and classroom observations, and (3) observations by teachers and related service providers. *Id.* § 300.305(a)(1). Based on that review and input from the child’s parents, school districts must then identify what additional data, if any, are needed to determine whether the child continues to have such a disability and their educational needs. *Id.* § 300.305(a)(2). The process for determining if a child has a specific learning disability also requires that “the child is observed in the child’s learning environment (including the regular classroom setting) to document the child’s academic performance and behavior in the areas of difficulty.” 34 C.F.R. § 300.310(a). A district can, but has no obligation to, substitute a privately obtained evaluation for an evaluation of its own. *See, Quitman Sch. Dist.*, 111 LRP 18235 (SEA MS 2011) (finding that the district had the right to conduct its own evaluation instead of relying on a recently obtained IEE).

### **B. Student’s First Reevaluation**

Here, Student received Title 1 supports for over two years, including instruction in fluency. (FF #s 17-23.) His DIBELS scores have remained well below benchmark since the start of second grade. (*Id.*) He showed limited progress and continued to have significant deficits in word reading fluency and nonsense word fluency across three different interventions. (FF # 43.)

In August 2025, Parent provided BOCES with a Private IEE which identified concerns with phonological processing, word reading, reading comprehension and reading fluency. (FF #s 24-30.) In response to the Private IEE, BOCES opted to conduct its own reevaluation in all areas identified in the consent for the First Reevaluation: general intelligence, communicative status and academic performance. (FF #s 31-44.) School Psychologist evaluated Student’s cognitive abilities and SLP evaluated his communicative status. (FF #s 37, 38.) Teacher evaluated his academic performance using select subtests of the WJ-V. (FF #s 39-42.) Teacher evaluated Student’s basic reading skills but did not evaluate his reading fluency or comprehension because she said she would not have a BoE in those areas. (FF #s 39, 40.) BOCES also did not include any observations of Student in his learning environment in the First Reevaluation. (FF # 45.)

For these reasons, the CDE finds that BOCES did not evaluate Student in all areas related to the suspected disability—specifically reading fluency and comprehension—or observe Student his learning environment to document academic performance and behavior in areas of difficulty. Accordingly, BOCES did not comply with 34 C.F.R. § 300.304(c)(4).

### **C. Denial of FAPE**

The United States Supreme Court has stressed the importance of complying with the IDEA’s procedural requirements. *Bd. Of Educ. v. Rowley*, 458 U.S. 176, 205-06 (1982). However, procedural noncompliance is only actionable to the extent it impedes the child’s right to a FAPE, significantly impedes the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE or causes a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).

Here, Student is currently eligible as a student with a disability. (FF # 53.) Because BOCES did not observe him in a literacy setting, it could not determine whether he was a child with a SLD. The CDE recognizes that Student scored in the average range on the untimed subtests administered by BOCES. (FF # 39.) However, children who struggle with decoding may score in the average range on untimed assessments of basic reading skills, but struggle with reading fluency and/or comprehension because of how hard they are working to decode the words. (FF # 49.) Because BOCES did not evaluate his reading fluency or comprehension, it did not gather relevant academic information to determine the contents of his IEP. For these reasons, the CDE finds and concludes that this noncompliance impeded Student’s right to a FAPE.

**Conclusion to Allegation No. 2: BOCES did not document and carefully consider Parent input at the November 20 eligibility determination, as required by 34 C.F.R. § 300.306(c)(1). This did not result in a denial of FAPE.**

**A. Legal Requirements: Eligibility Determinations**

Eligibility for special education and related services under the IDEA requires that (1) a child have one of thirteen qualifying disabilities and, (2) “by reason thereof, need[] special education and related services.” 34 C.F.R. § 300.8(a)(1); ECEA Rule 2.08. Thus, even if a child has one of the thirteen qualifying disabilities, the child must also require “specially designed instruction . . . to meet [his or her] unique needs.” 34 C.F.R. § 300.39(a)(1).

The IDEA requires that a MDT determine “whether the child is a child with a disability.” 34 C.F.R. § 300.306(a)(1). An analysis of the appropriateness of an eligibility determination involves two steps. First, the CDE examines whether the school district followed relevant standards and procedures in making the determination. *See Questions and Answers on IDEA Part B Dispute Resolution Procedures*, 61 IDELR 232 (OSERS 2013). Second, the CDE determines whether the eligibility decision was consistent with the data in the record. *Id.* As a matter of policy, the CDE cannot declare a student IDEA eligible through a state complaint decision. *Jefferson County School District RE-1*, 118 LRP 28108 (SEA CO 3/22/18).

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

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

*i. Documenting and Carefully Considering Information*

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

documented and carefully considered.” *Id.* § 300.306(c)(1)(ii). The requirement that an MDT consider parent input in eligibility determinations, however, does not mean that school districts must agree with a parent’s position or accede to a parent’s requests. *El Paso 20 (Acad.) Sch. Dist.*, 125 LRP 2530 (SEA CO 12/06/24) (finding a district properly considered parent’s input during an IEP meeting despite parent’s disagreement with IEP team’s decision). In reaching this determination, the CDE must, in part, determine whether there was a discussion about the characteristics exhibited by Student that support or refute the identification of a disability, and if so whether there is or continues to be an adverse impact on Student’s education performance. CDE, *IEP Procedural Guidance*, (2017), at p. 23, available at: [www.cde.state.co.us/transportation/ieproceduralguide](http://www.cde.state.co.us/transportation/ieproceduralguide).

Here, BOCES’ First Reevaluation of Student included academic, cognitive and communication testing. (FF #s 34-45.) It also included a BoE describing Student’s response to Title 1 supports. (FF #s 43-44.) However, the First Reevaluation does not include information from the Private IEE or parent or classroom teacher input. (FF #s 45.) BOCES concedes that the MDT did not document the Private IEE. (FF # 53.) Further, during the November 20 eligibility determination, the MDT did not discuss the Private IEE or the BoE or any characteristics of Student that would support the identification of a disability. (FF #s 47-50.) After reviewing the results of BOCES’ testing, the MDT determined that Student could benefit from general education alone and did not complete the rest of the checklist. (FF # 48.) Rather than discussing Parent’s concerns or the Private IEE, BOCES’ staff directed Parent to submit a written statement documenting her disagreement. (FF # 50.) For these reasons, the CDE finds and concludes that BOCES did not comply with 34 C.F.R. § 300.306(c)(1)(ii).

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

The CDE next considers whether the eligibility determination was consistent with Student-specific data in the Record.

According to the IDEA, a specific learning disability “means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think speak, read, write, spell, or do mathematical calculations, including conditions such as” dyslexia. 34 C.F.R. § 300.8(c)(10). A child with a specific learning disability has a learning disorder “that prevents [them] from receiving reasonable educational benefit from general education.” ECEA Rule 2.09(8).

States are also required to adopt specific criteria for determining if a child has a specific learning disability. 34 C.F.R. § 300.307. In Colorado, there must be a body of evidence demonstrating that the child:

- (1) “does not achieve adequately for the child’s age or to meet state-approved grade-level standards and exhibits significant academic skill deficits in [specified] areas” when provided appropriate learning experiences and instruction; and
- (2) does not make sufficient progress to meet age or state-approved grade-level standards in one of the specified areas, such as basic reading skills, reading fluency skills, reading comprehension, mathematical calculation, and mathematical problem solving.

ECEA Rule 2.09(8)(b)(i)-(ii).

While districts must consider the results of an IEE, they do not have to adopt the evaluator’s conclusions. *T.S. v. Board of Educ. Of the Town of Ridgefield*, 20 IDELR 889, (2d Cir. 1993) (holding that the district considered an IEE where the team discussed a summary of the results before reaching a conclusion contrary to the IEE’s recommendations.)

Here, the Private IEE indicated significant deficits in basic reading skills, reading fluency and reading comprehension. (FF #s 24-30.) Student had also been receiving Title 1 reading supports since first grade and making insufficient growth “across multiple interventions and assessment types.” (FF #s 17-23, 43, 44.) This included scoring well below benchmark on timed DIBELS assessments. (FF #s 18, 21.) While Student scored in the average range on the administered WJ-V reading subtests, those were untimed assessments. (FF #s 39.) BOCES was not obligated to ignore its own results in favor of the results of the Private IEE. *T.S.*, 20 IDELR 889. However, BOCES was obligated to carefully consider the Private IEE and RTI data along with its reevaluation data. *Id.*; 34 C.F.R. § 300.306(c)(1)(i). This includes a consideration of the characteristics that support or refute eligibility. CDE, *IEP Procedural Guidance*, p. 23. For instance, a discrepancy between a student’s results on timed and untimed tests of basic reading skills could indicate difficulties with reading fluency and/or comprehension. (FF # 49.) BOCES was also obligated to consider the low reading fluency and reading comprehension scores in the Private IEE. (FF # 24-30.)

For these reasons, the CDE finds and concludes that BOCES did not make the eligibility determination consistent with the IDEA’s procedures and the Reevaluation and other data in Student’s record. *See Questions and Answers on IDEA Part B Dispute Resolution Procedures*, 61 IDELR 232 (OSERS 2013).

#### **D. No Denial of FAPE**

The United States Supreme Court has stressed the importance of complying with the IDEA’s procedural requirements. *Bd. Of Educ. v. Rowley*, 458 U.S. 176, 205-06 (1982). However, procedural noncompliance is only actionable to the extent it impedes the child’s right to a FAPE, significantly impedes the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE or causes a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).

Here, the MDT did not respond to Parent’s concerns during the eligibility determination or discuss the results of the Private IEE when she brought them up. (FF # 50.) However, BOCES recognized this procedural deficiency in December and reversed the eligibility determination. (FF # 53.) BOCES reinstated Student’s IEP, sought consent for another reevaluation and scheduled an additional eligibility determination. (FF #s 52-58.) For these reasons, the CDE finds and concludes that this did not result in a denial of FAPE.

**Systemic IDEA Noncompliance: This investigation does not demonstrate noncompliance that is systemic in nature. 34 C.F.R. § 300.151(b)(2).**

Pursuant to its general supervisory authority, CDE must consider and ensure the appropriate future provision of services for all IDEA-eligible students in BOCES. 34 C.F.R. § 300.151(b)(2). Indeed, the U.S. Department of Education has emphasized that the state complaint procedures are “critical” to the SEA’s “exercise of its general supervision responsibilities” and serve as a “powerful tool to identify and correct noncompliance with Part B.” *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46,601 (Aug. 14, 2006).

Here, BOCES’ Comprehensive Plan accurately identifies the requirements for evaluating a student with a suspected SLD. (FF #s 5-11.) This includes requiring consideration of outside evaluations provided by parents, conducting observations and evaluating in all areas of suspected disability. (*Id.*) Thus, the CDE finds and concludes that this noncompliance was not systemic.

### **REMEDIES**

The CDE concludes that BOCES did not comply with the following IDEA requirements:

1. Comprehensively evaluating Student in all areas of suspected disability, as required by 34 C.F.R. § 300.304(c)(4).
2. Documenting and carefully considering information from a variety of sources, as required by 34 C.F.R. § 300.306(c)(1).

To demonstrate compliance, BOCES is ORDERED to submit a corrective action plan (“CAP”) by **Friday, April 3, 2026** that adequately addresses how the cited noncompliance will be corrected through the completion of the following remedies:

#### **1. Final Decision Review**

- a. Director, BOCES’ child find coordinator, Teacher and School Psychologist must read this Decision in its entirety, as well as review the requirements of 34 C.F.R. §§ 300.304 and 300.306, by **Friday, April 10, 2026**. If these individuals are no longer employed by BOCES, BOCES may substitute individuals occupying identical roles to demonstrate compliance with this remedy. A signed assurance that this

information has been read and reviewed, and a signed assurance from Director verifying that all required staff completed this review, must be provided to the CDE by **Tuesday, April 14, 2026**.

## **2. Evaluation**

- a. By **Friday, March 27, 2026**, BOCES must conduct a comprehensive evaluation of Student in all areas of suspected disability. BOCES may determine the appropriate evaluations and evaluators. The evaluation must be conducted in all areas of suspected disability and be consistent with the IDEA's evaluation procedures at 34 C.F.R. §§ 300.304 through 300.310. The evaluator(s) must be appropriately licensed, trained, and knowledgeable to conduct the assessments.
- b. If BOCES determines that additional consent is required, consent for the evaluation must be obtained no later than **Friday, March 13, 2026**. Alternatively, if a reevaluation is ongoing, BOCES may submit the existing signed consent for evaluation.
  - i. If Parent does not provide consent within 10 days of receiving the request to evaluate, BOCES will be excused from conducting the evaluation ordered in this Decision. If Parent conditions consent for evaluation inconsistent with the scope of the evaluation ordered in this Decision, this may be construed as a refusal to provide consent. A determination that Parent refused consent by adding conditions rests solely with the CDE.
- c. Evidence that this evaluation has occurred—including consent to evaluate and the evaluation report—shall be provided to the CDE by **Friday, April 3, 2026**.

## **3. Determination of Eligibility**

- a. Consistent with the agreement of the parties, by March 27, 2026, BOCES and Parent shall convene a MDT meeting in conformity with the requirements of 34 C.F.R. §§ 300.301-306. That MDT shall determine whether Student is eligible for special education and related services. BOCES shall issue a prior written notice in conformity with 34 C.F.R. § 300.503 describing the MDT's determination. The MDT must consider any newly obtained information in making its determination.
- b. Should the MDT determine that Student is eligible for special education and related services, BOCES shall, within 30 days of that determination, convene an IEP team in conformity with the requirements of 34 C.F.R. §§ 300.320-328, and develop an appropriate IEP for Student.
- c. By **Wednesday, May 6, 2026**, BOCES must provide copies of the eligibility determination, the prior written notice, notice of the IEP meeting (if applicable),

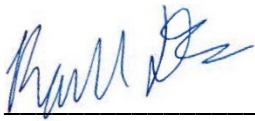
and finalized IEP (if applicable) to CDE Special Education Monitoring and Technical Assistance Consultant.

**NOTE:** CDE Special Education Monitoring and Technical Assistance Consultant will contact BOCES with specific instructions for securely submitting the documentation detailed above. The CDE will approve or request revisions that support compliance with the CAP. After approval of the CAP, the CDE will arrange to conduct verification activities to confirm BOCES timely correction of the areas of noncompliance. If BOCES does not meet the timelines set forth above, it may adversely affect BOCES annual determination under the IDEA and subject BOCES to enforcement action by the CDE.

### **CONCLUSION**

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

Dated this 6<sup>th</sup> day of March, 2026.



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Rachel Dore  
Senior State Complaints Officer

## APPENDIX

### **Complaint, pages 1-15**

- Exhibit 1: Correspondence
- Exhibit 2: Evaluation
- Exhibit 3: Correspondence
- Exhibit 4: 504 Plan
- Exhibit 5: BoE

### **Response, pages 1-13**

- Exhibit A: IEPs
- Exhibit B: Evaluations
- Exhibit C: PWNs
- Exhibit D: Meeting Documentation
- Exhibit E: Documentation from Parent
- Exhibit F: Consents for Evaluation
- Exhibit G: Meeting Documentation
- Exhibit H: None
- Exhibit I: Student Data
- Exhibit J: Progress Monitoring
- Exhibit K: RTI Data
- Exhibit L: District Calendar
- Exhibit M: Policies and Procedures
- Exhibit N: Correspondence
- Exhibit P: Verification of Delivery
- Exhibit Q: Additional Procedures

### **Reply, pages 1-39**

- Exhibit 6: Transcript
- Exhibit 7: Correspondence
- Exhibit 8: Correspondence
- Exhibit 9: Progress Report
- Exhibit 10: Meeting Notes
- Exhibit 11: Correspondence
- Exhibit 12: Notes on Correspondence
- Exhibit 13: Correspondence

### **Telephone Interviews**

- Coordinator: February 6, 2026

- Director: February 6, 2026
- Parent: February 9, 2026
- Paraprofessional: February 10, 2026
- Teacher: February 10, 2026