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

State Complaint SC2026-521
Poudre School District

DECISION

INTRODUCTION

On February 4, 2026, an individual ("Complainant") filed a state complaint ("Complaint") against Poudre School District ("District") on behalf of students ("Students") identified as children with a disability under the Individuals with Disabilities Education Act ("IDEA")[1] who participate in a center-based program at a District elementary school ("School"). 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 April 3, 2026, the CDE extended the 60-day investigation due to exceptional circumstances, consistent with 34 C.F.R. § 300.152(b)(1).

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 February 4, 2025. Information prior to February 4, 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)[2] of the IDEA:

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[1] The IDEA is codified at 20 U.S.C. § 1400 *et seq*. The corresponding IDEA regulations are found at 34 C.F.R. § 300.1 *et seq*. The Exceptional Children's Education Act ("ECEA") governs IDEA implementation in Colorado.

[2] The CDE's state complaint investigation determines if District complied with the IDEA, and if not, whether the noncompliance results in a denial of a free appropriate public education ("FAPE"). 34 C.F.R. §§ 300.17, 300.101, 300.151-300.153.

1. District did not establish and maintain qualifications to ensure that paraprofessionals in the center-based program at School were appropriately and adequately trained and supervised based on their role from August 2025 through October 2025, as required by 34 C.F.R. §§ 300.156 and 300.207, and ECEA Rule 3.04.

2. District did not implement Students' Individualized Education Programs ("IEPs") from August 2025 through October 2025 because it:

    a. Did not make the IEPs accessible to teachers or service providers responsible for its implementation, as required by 34 C.F.R. § 300.323(d); and

    b. Did not provide the accommodations listed in the IEPs, specifically adaptive seating and sensory supports, as required by 34 C.F.R. § 300.323(c).

FINDINGS OF FACT

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

A. Background

1. District opened a new center-based autism program (the "Program") at School for the 2025-2026 school year. *Interviews with District's Director of Special Education ("Director") and Assistant Director of Special Education ("Assistant Director").* Complainant worked in the Program from August 14 until September 8 as a paraprofessional. *Interview with Complainant*; *Exhibit E,* p. 1.

2. Nine IDEA-eligible Students participated in the Program from August 14, 2025 through October 2025. *Exhibit E,* pp. 1-2.

3. This investigation involves the personnel qualifications of paraprofessionals, as well as implementation of accommodations required by Students' IEPs, in the Program from August 14, 2025 through October 2025. *Complaint,* pp. 2-4.

B. District's Practices, Policies and Procedures

4. District provides written guidance for its staff related to paraprofessional qualifications and IEP implementation. *Interview with Director*. This includes a procedural guidance manual and a specific paraprofessional handbook for the Program. *Id.; Exhibit F,* pp. 1-294, *Exhibit J-1,* pp. 1-12. The procedural guidance manual describes the roles for different members of the "IEP Support Team," including the case managers, assistant director, and director. *Exhibit F,* pp. 6-

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

10. The paraprofessional handbook reinforces training they receive from professional learning days, including information about applied behavior analysis, crisis prevention intervention, positive reinforcements, and asking for support. *Interview with Director; Exhibit J-1,* pp. 5-7.

5. Director accurately described District's obligations under IDEA and ECEA, stating that paraprofessionals must be supervised and directed by a certified special education teacher. *Id.*

6. District also has a practice of robust training and support for paraprofessionals. *Id.* The training includes professional development days before and during each school year, weekly training on relevant material, as well as optional training. *Id.* Paraprofessionals also receive hands-on coaching in the classroom through District's paraprofessional coaches, registered behavior technicians, board certified behavioral analysts, and special education teachers. *Id.*

7. Director stated that District instructs its staff to implement IEPs with fidelity. *Id.* To ensure that staff responsible for implementation of IEPs are aware of their specific responsibilities, each student's case manager is responsible for ensuring that those staff members are familiar with the content of the IEP relevant to their implementation obligations. *Id.*

C. The Program: Paraprofessional Training and Supervision

8. Complainant's concern is that District did not provide the Program's paraprofessionals adequate training and supervision. *Interview with Complainant.*

Paraprofessional Training

9. Prior to the start of the 2025-2026 school year, District held multiple training days for its paraprofessional staff. *Interviews with Assistant Director, the Program's special education teacher ("Special Education Teacher"), School's Paraprofessional ("Paraprofessional"), and District's Registered Behavioral Technician ("RBT").*

10. These professional learning days included both optional and mandatory training for the Program's paraprofessionals. *Interviews with Special Education Teacher, Paraprofessional, and Director.* An optional training occurred on August 8 and 11. *Id.; Exhibit G-2,* p. 3, 8. The presentations and resources from those professional learning days were provided to paraprofessional staff via email on August 15. *Exhibit G-2,* p. 39. These presentations were focused on integrated services, including practices and procedures, how they are implemented, and a breakdown of what that looks like at each grade level. *Exhibit G-2,* p. 39.

11. On August 12, District held a required training for paraprofessional staff with less than 3 years of experience in the Program from 1:00 pm - 3:30 pm. *Exhibit J-3,* p. 3; *Exhibit G-1,* p. 58; *Interviews with Complainant and Paraprofessional.* Complainant attended this training. *Exhibit G-2,* p. 20*; Interview with Complainant.* During this training, District's Board Certified

Behavior Analyst ("BCBA"), RBT, and a paraprofessional coach ("Paraprofessional Coach") reviewed policies and procedures with the paraprofessionals in the Program and provided them with the paraprofessional handbook. *Interviews with RBT and Assistant Director; Exhibit J-3,* pp. 1-15. This also provided a time for paraprofessionals to ask questions and discuss any questions amongst themselves. *Interviews with RBT and Assistant Director.*

12. On August 13, School held a required building workday and training for all staff. *Exhibit J-4,* pp. 1-2*; Exhibit G-2,* p. 59. Three and a half hours were set aside for a paraprofessional-specific orientation. *Exhibit J-4,* p. 2*; Exhibit G-2,* p. 59; *Interview with RBT*. During the orientation, the Program's paraprofessionals participated in an hour-long review of all Students' IEPs and Section 504 Plans. *Exhibit J-4,* p. 1; *Interviews with Complainant, Paraprofessional 1, and Special Education Teacher.*

13. Certain topics covered during the professional learning days, including physical supports guidance, toileting guidance, and specific guidance for working with children in the Program, were shared with Program staff on August 12 and 13 by email. *Exhibit G-1,* pp. 1-3, 16, 39.

14. Training for Program staff continued throughout the school year. *Interviews with Special Education Teacher, Paraprofessional, RBT, and BCBA.* Beginning on August 28, and every Thursday afternoon following, Program staff participated in training specific to the Program. *Id; Exhibit J-1,* p. 1. Topics discussed during these meetings included the importance of team, reinforcement and pairing for students, calming and regulation strategies, and behavioral support and management, amongst others. *Exhibit J-1*, pp. 1-12.

15. Continued professional development courses were made available to the Program's paraprofessional staff. *Interviews with Director and Paraprofessional; Exhibit G-2,* pp. 51-56. District set aside additional professional development days on October 16 and 17 to provide time for employees to take these courses. *Exhibit G-2,* p. 96. Additionally, on October 20, District held a training day, during which paraprofessionals had the opportunity to review the paraprofessional manual and complete training. *Exhibit G-1,* p. 42.

Paraprofessional Supervision

16. The Program has one full-time special education teacher—Special Education Teacher—and four full-time paraprofessionals. *Response,* p. 5; *Interview with Special Education Teacher.*

17. Special Education Teacher holds an active Colorado professional teacher license with an endorsement in early childhood special education (ages 0-8). *Exhibit D,* p. 1; *Interview with Special Education Teacher.* Part of Special Education Teacher's responsibilities include assisting in the supervision and direction of special education paraprofessionals. *Exhibit J-10,* p. 1; *Interviews with Special Education Teacher, Paraprofessional, and Assistant Director.*

18. School's Principal ("Principal") and Assistant Director also collaborate to oversee the Program's paraprofessionals. *Interview with Assistant Director.* Assistant Director spent time

in the Program at least weekly and, at the beginning of the school year, usually visited two to three times per week. *Id.* Principal checked in on the Program daily during the beginning of the school year. *Interview with Principal.*

19. Additional District staff supported the Program in person, providing real time training and modeling. *Response,* p. 5; *Interviews with Special Education Teacher, Paraprofessional, RBT, and BCBA.* This included BCBA who was present in the classroom all day on Tuesday and Thursday and RBT who was in the classroom all day Friday and Thursday afternoons. *Exhibit D,* p. 2; *Exhibit G-1,* p. 11; *Interviews with BCBA, Paraprofessional, and Complainant.* BCBA and RBT would actively coach paraprofessionals on how to implement each portion of a Student's IEP. *Interviews with BCBA, RBT, and Paraprofessional.*

20. Finally, Paraprofessional Coach spent a lot of time at the beginning of the year providing training to paraprofessionals in the Program. *Id.* Paraprofessional Coach sent out training materials, videos, and other resources to the paraprofessionals. *Exhibit G-2,* pp. 1, 40.

D. Students' IEPs: Accessibility to Teachers and Others

21. Special Education Teacher received access to Students' IEPs and related special education documents on August 4, ten days prior to the first day of school. *Exhibit G,* pp. 52-53; *Interview with Special Education Teacher.*

22. Per District practice, a "snapshot" of each IEP was generated by Enrich, District's software for housing special education records. *Interview with Special Education Teacher.* Each of these snapshots includes the accommodations (including adaptive seating and sensory supports), special education services, and goals for Students. *Id.*

23. During the hour-long review of Students' IEP and Section 504 plans on August 13, Special Education Teacher provided the paraprofessionals in the Program Students' IEP snapshots. *Interview with Special Education Teacher, Paraprofessional, and Complainant. Exhibit J-4,* p. 1. Paraprofessional put together a fanny pack of different accommodations Students would need, such as fidgets. *Interview with Paraprofessional.* Special Education Teacher was present to answer any questions about the IEPs. *Id.*

24. Special Education Teacher printed off Students' IEP snapshots and kept them in a binder in the classroom. *Interviews with Special Education Teacher, Paraprofessional, BCBA, and RBT.*

E. Students' IEPs: Implementation of Adaptive Seating

25. Complainant's concern is that District did not provide adaptive seating for Students consistent with their IEPs. *Interview with Complainant.* The IEPs for seven of nine Students in the Program had an accommodation related to adaptive seating: Students A, B, C, E, F, H, and I. *Exhibit B-1,* p. 17; *Exhibit B-2,* p. 22*; Exhibit B-3,* p. 26*; Exhibit B-4,* p. 19*; Exhibit B-5,* p. 19*; Exhibit B-6,* p. 17*; Exhibit B-7,* p. 10*; Exhibit B-8,* p. 13*; Exhibit B-9,* p. 32. 26.

Adaptive Seating Options in General

26. The Program classroom was equipped with different adaptive seating options including wobble chairs, blocks, cushions, and rocking chairs to begin the school year. *Interviews with Special Education Teacher, Paraprofessional, BCBA, and RBT.* Some items, specifically a cube chair, were still being gathered on the first day of school. *Interview with Special Education Teacher.* The cube chair was obtained by early September. *Interviews with Special Education Teacher and Director.*

27. Six of the seven Students (Students A, B, E, F, H, and I) who had adaptive seating accommodations attended specials with their general education peers. *Interviews with School's Space and Technology Teacher ("Technology Teacher"), Art Teacher, and Music Teacher.* Student C did not attend specials. *Id.*

28. Students have space and technology for one hour a week. *Interview with Technology Teacher.* The kindergarten class and first grade class attend this specials class twice a week for thirty minutes. *Id.* The second-grade class attends once a week for one hour. *Id.* In the tech and "maker space" room, the students move between the computer lab or in the "maker space" and sit at regular chairs. *Interview with Technology Teacher.* Students would often sit for the first five to ten minutes of class before moving around the room to "make" things. *Id.* At the beginning of the school year, other seating options were not available. *Id.* Technology Teacher requested rocking chairs, inflatable cushions, and fidgets in December. *Id.*

29. Students have art once a week for one hour. *Interview with School's Art Teacher ("Art Teacher").* In the art classroom, Students had the option to sit on the carpet or sit at their tables where they have stools. *Id.* Within the first month of school starting, the art classroom received pillows. *Id.* Within two months, the art classroom received wobble stools. *Id.* Art Teacher noticed Students E, F, H, and I struggling with sitting on the carpet for instruction time. *Id.* She allowed these students to skip carpet time and go directly to their tables. *Id.* Students did not use the carpet or wobble stools much once they got them. *Id.*

30. Students have music once a week for 30 minutes. *Interview with School's music teacher ("Music Teacher").* In the music classroom, a flexible stool and a seat pad were present at the beginning of the school year. *Id.* The room also has a "peace corner." *Id.* Students are allowed to roam and explore the room whenever they need to. *Id.*

31. Student E and Student I spent time in the kindergarten general education classroom. *Interview with Kindergarten Teacher*. In the kindergarten classroom, beginning on the first day of school, wobbly chairs and seat pads with bumps were available for adaptive seating. *Id.* Student I misses circle time in the morning. *Id.* When the class otherwise has circle time, he prefers to sit at his table. *Id.* They have placed his chair and table closest to the carpet. *Id.* Student E leans into the paraprofessional when he sits on the carpet. *Id.*

32. Students A, B, C, F, G, and H spend time in the first-grade general education classroom. *Interview with First Grade Teacher.* At the beginning of the year, the cube chair would travel back and forth between classrooms. *Id.* The first-grade classroom also has Adirondack chairs, stools, and wobble stools that were present at the beginning of the school year. *Id.*

Student A

33. The IEP for Student A, a first-grade student, lists an accommodation of "choice of seating at carpet time (cube chair, rocking chair, or carpet spot)." *Exhibit B-1,* p. 17.

34. Generally, Student A chooses a carpet spot during carpet time. *Interviews with Special Education Teacher and Paraprofessional.* Student A tried a wobble chair, consistent with the IEP, but that ended up being more of a distraction than an aid. *Interview with Special Education Teacher.* Student A did not like using the cube chair. *Id.*

35. Student A's classes did not participate in carpet time while in the tech and "maker space" room or in the music classrooms. *Interviews with Technology Teacher and Music Teacher.* There was carpet time during art class; however, students were not required to partake in carpet time and could go directly to their tables where they had stools. *Interview with Art Teacher.* While in the Program and first-grade classroom, Student A had access to adaptive seating options in addition to a carpet spot during carpet time. *Interviews with First Grade Teacher, Paraprofessional, and Special Education Teacher.*

36. Thus, the CDE finds District provided this accommodation consistent with Student A's IEP from August 14, 2025 through October 2025.

Student B

37. The IEP for Student B, a first-grade student, lists an accommodation for a "cushion or block to sit on to prompt crisscross sitting." *Exhibit B-2,* p. 22.

38. Student B is a "mover and shaker." *Interview with Special Education Teacher.* She needs some more support to keep herself seated. *Id.* Student B is provided, and generally uses, the block or sits on the carpet. *Id.* She has been successfully sitting crisscross or with her legs out on the carpet during this school year. *Id.*

39. As noted above, carpet time either did not occur during specials or Student B was allowed to sit at her table. *Interviews with Technology Teacher, Music Teacher, and Art Teacher.* Student B did not have access to a cushion for the first month of school while in the first-grade classroom. *Interview with First Grade Teacher.*

40. Thus, the CDE finds District did not provide this accommodation consistent with Student B's IEP from August 14, 2025 until September 14, 2025.

Student C

41. The IEP for Student C, a first-grade student, lists an accommodation to "provide dynamic and structured seating options as needed." *Exhibit B-3,* p. 26.

42. Student C is at school a couple of days a week and does not attend specials. *Interview with Special Education Teacher.* Her ability to sit has increased throughout the school year. *Id.* Student C is given the opportunity to stand if she wants, in addition to other structured seating options. *Id.* She did not like the texture of the wedge seat but does enjoy the wobble stool. *Id.*

43. Student C spent her time in the first-grade classroom and the Program. *Interviews with First Grade Teacher and Special Education Teacher.* Structured seating options were available in both classrooms on the first day of school. *Id.*

44. Thus, the CDE finds District provided this accommodation consistent with Student C's IEP from August 14, 2025 through October 2025.

Student E

45. The IEP for Student E, a kindergarten student, lists an accommodation for "supported seating at circle time (i.e. small armchair, cube chair, rocking chair, etc.) as needed." *Exhibit B-5,* p. 19.

46. Student E chooses to sit on the carpet with his peers. *Interviews with Special Education Teacher and Paraprofessional.* His general education teacher has letters on her carpet, and he sits on the letter W every day. *Id.* His peers are aware of this and ensure his letter is available. *Id.*

47. As noted above, carpet time either did not occur during specials or Student E was allowed to sit at a table. *Interviews with Technology Teacher, Music Teacher, and Art Teacher.* The kindergarten classroom had supported seating available for circle time on the first day of school. *Interview with Kindergarten Teacher.*

48. Thus, the CDE finds District provided this accommodation consistent with Student E's IEP from August 14, 2025 through October 2025.

Student F

49. The IEP for Student F, a first-grade student, lists an accommodation for "structured seating options or the option to stand while working." *Exhibit B-6,* p. 17.

50. Student F uses a cube chair in the Program and in specials and general education classrooms for any carpet time. *Interviews with Special Education Teacher, Paraprofessional, BCBA, and RBT.* This helps keep his body calm. *Id.*

51. In specials, though some adaptive seating options were not available for Student F, his accommodation could be met by allowing him to stand. *Interviews with Technology Teacher, Music Teacher, and Art Teacher.* Student F was permitted to stand while working in the tech and "maker space" room and music room. *Interviews with Technology Teacher and Music Teacher.* In the art room, Students were generally on the carpet or in their stools, but Student F was permitted to walk around. *Interviews with Art Teacher.* In the first-grade classroom and the Program, structured seating options were available from the first day of school. *Interview with First Grade Teacher, Paraprofessional, and Special Education Teacher.*

52. Thus, the CDE finds District provided this accommodation consistent with Student F's IEP from August 14, 2025 through October 2025.

Student H

53. The IEP for Student H, a first-grade student, lists an accommodation for "adapted seating at circle time (rocking chair, cube chair, small arm chair) as needed." *Exhibit B-8,* p. 14.

54. Student H uses the wedge seat more than any of her peers. *Interview with Special Education Teacher.* She also likes to lean up against something. *Id.*

55. As noted above, carpet time either did not occur during specials or Student E was allowed to sit at a table. *Interviews with Technology Teacher, Music Teacher, and Art Teacher.* While in the Program and first-grade classroom, Student H had access to adaptive seating options at circle time. *Interviews with First Grade Teacher, Paraprofessional, and Special Education Teacher.*

56. Thus, the CDE finds District provided this accommodation consistent with Student H's IEP from August 14, 2025 through October 2025.

Student I

57. The IEP for Student I, a kindergarten student, lists an accommodation for "access to alternative seating options." *Exhibit B-9,* p. 32.

58. While in the Program, Student I enjoys sitting on the carpet, in a chair next to his peers during circle time, or on a stool. *Interview with Special Education Teacher.* During art class, he will lay on the ground sometimes. *Id.*

59. For Student I, in the tech and "maker space" room and art classrooms, adaptive seating options were not present at the beginning of the school year. *Interviews with Technology Teacher and Art Teacher.* Specifically, in the tech and "maker space" room, Students would often sit for the first five to ten minutes of class before moving around the room to "make" things. *Interview with Technology Teacher.* At the beginning of the school year, other seating options were not available. *Id.* Technology Teacher requested rocking chairs, inflatable

cushions, and fidgets in December. *Id.* The music classroom had a flexible stool available on the first day of school. *Interview with Music Teacher.* The kindergarten classroom and the Program had supported seating available for circle time on the first day of school. *Interviews with Kindergarten Teacher and Special Education Teacher.*

60. Thus, the CDE finds District did not provide this accommodation consistent with Student I's IEP in the tech and "maker space" room and in the art room from August 14, 2025 through October 2025.

F. Students' IEPs: Implementation of Sensory Supports

61. Complainant's concern is that District did not provide sensory supports for Students. *Interview with Complainant.* The IEP's for all nine Students had an accommodation related to sensory supports. *Exhibit B-1,* p. 17; *Exhibit B-2,* p. 22*; Exhibit B-3,* p. 26*; Exhibit B-4,* p. 19*; Exhibit B-5,* p. 19*; Exhibit B-6,* p. 17*; Exhibit B-7,* p. 10*; Exhibit B-8,* p. 13*; Exhibit B-9,* p. 32*.*

Sensory Support Options in General

62. Within the Program, sensory items available to start the year included weighted blankets, a trampoline, and small fidgets like spinners and pop-its, a rocking chair, wedge shape, inflatable seats, exercise chairs. *Interviews with RBT, Assistant Director, BCBA, Special Education Teacher, and Paraprofessional.* Program classroom has a quiet space that is always available to all Students should they want a break. *Interview with Paraprofessional.* Whenever Students need a break, paraprofessionals offer the quiet space or to go on a walk outside of the classroom. *Id.*

63. School has a sensory room that is available to students, including those in the Program. *Interview with RBT.* The sensory room has larger sensory items, like hammocks. *Id.*

64. The first-grade classroom has fidgets that remain in the classroom, to include pop-its, chains students can twist, and items students connect and disconnect, amongst others. *Interview with First Grade Teacher.* Headphones are also available in the first-grade classroom. *Id.* Paraprofessionals filled backpacks for each student that had additional fidget options and would be taken to specials with them. *Interview with First grade Teacher and Kindergarten Teacher.*

65. The kindergarten classroom has headphones, as well as a bucket of fidgets and calm down tools that remain in the classroom. *Interview with Kindergarten Teacher.* The paraprofessionals would bring a bin of fidget tools for Students to the general education classroom and specials classrooms. *Id.*

66. Paraprofessionals brought a backpack with fidgets to the tech and "maker space" classroom, the art classroom, and the music classroom. *Interviews with Technology Teacher, Art Teacher,*

and Music Teacher. Music Teacher made a tub of different materials that are related to rhythms that Students could fidget with as well. In*terview with Music Teacher.*

Student A

67. The IEP for Student A lists these accommodations: "an option for a fidget as needed"; "access to noise canceling headphones for loud sounds/events"; and "offer walk or access to a quieter space to reset if upset or overwhelmed." *Exhibit B-1,* p. 17.

68. Student A typically does not like to use a fidget but does enjoy Legos. *Interviews with Special Education Teacher and Paraprofessional.* Student A has used the noise cancelling headphones for fire drills a couple times throughout the year but generally does not ask for them. *Id.*

69. Thus, the CDE finds District provided this accommodation consistent with Student A's IEP from August 14, 2025 through October 2025.

Student B

70. The IEP for Student B lists an accommodation for the use of fidgets, and headphones to decrease distractions. *Exhibit B-2,* p. 21.

71. Student B does ask for headphones occasionally, especially when the classroom "gets a little busy," and is provided headphones in these instances. *Interviews with Special Education Teacher and Paraprofessional.* Teachers and Student B's parents have decided fidgets are more of a distraction than a tool that helps her focus. *Id.* School does allow Student B to use fidgets for transitions or times when they are not working. *Interview with Special Education Teacher.*

72. Thus, the CDE finds District provided this accommodation consistent with Student B's IEP from August 14, 2025 through October 2025.

Student C

73. The IEP for Student C lists an accommodation that she be provided with breaks when she is feeling overwhelmed or showing signs of dysregulation and opportunities for movement breaks when having difficulties regulating her body. *Exhibit B-3,* p. 26.

74. Student C requests the spinning chair for almost every movement break. *Interview with Paraprofessional.* It helps regulate her. *Id.* Student C is encouraged to spin in the spinning chair in between each segment of instruction to help her regulate. *Id.*

75. Thus, the CDE finds District provided this accommodation consistent with Student C's IEP from August 14, 2025 through October 2025.

Student D

76. The IEP for Student D lists an accommodation for "opportunities for sensory and movement breaks" and a "designated break space for emotional regulation and self-directed break". *Exhibit B-4,* p. 20.

77. Student D enjoys using the spinning chair and trampoline for sensory and movement breaks. *Interview with Special Education Teacher.* He will request or be invited to use the trampoline or spinning chair before starting a nonpreferred activity. *Id.*

78. Thus, the CDE finds District provided this accommodation consistent with Student D's IEP from August 14, 2025 through October 2025.

Student E

79. The IEP for Student E lists an accommodation for "use of fidget items to maintain attention during instructional times as needed." *Exhibit B-5,* p. 19. It also lists explicit teaching of use of the calm down area and allowing breaks when overwhelmed or upset. *Id.*

80. Student E occasionally uses a fidget. *Interview with Special Education Teacher.* He carries with him a [toy] to help him focus. *Id.* Student will say "break" during specials if he is having a difficult time and he will go to Special Education Teacher's classroom and use the spin chair. *Interview with Paraprofessional.*

81. Thus, the CDE finds District provided this accommodation consistent with Student E's IEP from August 14, 2025 through October 2025.

Student F

82. The IEP for Student F lists an accommodation for access to fidgets while working and use of quiet space within the Program to de-escalate. *Exhibit B-6,* p. 17.

83. Student F does not choose to use fidgets in the general education or the Program. *Interview with Special Education Teacher.* He occasionally uses one in specials. *Id.* Student will use the trampoline, ask for a break, or ask for a hug from a preferred adult. *Interviews with Special Education Teacher and Paraprofessional.*

84. Thus, the CDE finds District provided this accommodation consistent with Student F's IEP from August 14, 2025 through October 2025.

Student G

85. The IEP for Student G lists an accommodation for headphones in loud environments and the opportunity to sit in a quieter setting for eating lunch. *Exhibit B-7,* p. 10.

86. Student G does like to use headphones. *Interviews with Special Education Teacher and Paraprofessional.* She uses them more in the Program than the general education classroom. *Id.* Student G is given the option to eat with Special Education Teacher or in the library for lunch. *Id.* Student G has used the library twice and each time has ended up choosing to go to the lunchroom. *Interview with Special Education Teacher.* She does tend to sit by herself and when asked why, she says "I like it here." *Id.*

87. Thus, the CDE finds District provided this accommodation consistent with Student G's IEP from August 14, 2025 through October 2025.

Student H

88. The IEP for Student H lists an accommodation for the use of fidget objects to maintain attention during larger group instructional times as appropriate. *Exhibit B-8,* p. 14.

89. Student H does not fidget with her hands but she does grind her teeth. *Interview with Special Education Teacher and Paraprofessional.* She will use a chewy to provide oral stimulation. *Id.*

90. Thus, the CDE finds District provided this accommodation consistent with Student H's IEP from August 14, 2025 through October 2025.

Student I

91. The IEP for Student I lists an accommodation for opportunities for sensory and movement breaks and encouraging functional play with tools during sensory breaks. *Exhibit B-9,* p. 32.

92. Student I uses fidgets most of the day and takes sensory breaks. *Interviews with RBT, Paraprofessional, and Special Education Teacher.* He occasionally uses the trampoline, paces around the room often, and uses an exercise ball his parent provided School. *Interview with Special Education Teacher and Paraprofessional.*

93. Thus, the CDE finds District provided this accommodation consistent with Student I's IEP from August 14, 2025 through October 2025.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District established and maintained qualifications to ensure paraprofessionals in the Program were appropriately and adequately trained from August 14, 2025 through October 2025, as required by 34 C.F.R. §§ 300.156 and 300.207, and ECEA Rule 3.04. District complied with the IDEA and ECEA.

Complainant's concern is that the paraprofessionals who supported the Program, including herself, were not appropriately and adequately trained and supervised. (FF # 8.)

A. Legal Requirements for Personnel Qualifications

The CDE must establish qualifications to ensure that special education teachers are "appropriately and adequately prepared and trained . . . to serve children with disabilities." 34 C.F.R. § 300.156(a). This includes ensuring that all special education teachers have obtained state certification as special education teachers. *Id.* at § 300.156(c). School districts must ensure that staff are "appropriately and adequately prepared, subject to the requirements of § 300.156." *Id.* at § 300.207. To that end, Colorado law mandates that "all special education teachers shall hold Colorado teacher's certificates or licenses with appropriate endorsements in special education." ECEA Rule 3.04(1)(a)(i). School districts are responsible for ensuring their staff comply with state licensing requirements. ECEA Rule 3.03.

The IDEA permits paraprofessionals who are appropriately trained and supervised to assist in the provision of special education. 34 C.F.R. § 300.156(b)(2)(iii); *Questions and Answers on Highly Qualified Teachers Serving Children with Disabilities*, Q-I1, 47 IDELR 165 (OSERS 2007). In Colorado, individual school districts "determine the qualifications and competencies for paraprofessionals." ECEA Rule 3.04(1)(e). "A paraprofessional who assists in the provision of special education and related services must be adequately and appropriately trained based on their role and the services they are providing to individual students." *CDE Guidance on Paraprofessionals Serving IDEA-Eligible Students*. "This means that the training should cover all areas necessary to perform their specific role as well as any individualized or student-specific training necessary to ensure that support and services are provided consistent with the requirements of the IEP." *Id.*

B. Paraprofessionals in the Program

From the start of the 2025-2026 school year, Special Education Teacher, a properly licensed special education teacher, provided specialized instruction in the Program. (FF #s 16-17.) District ensured its paraprofessionals were adequately and appropriately trained: indeed, District has developed a written procedural guidance manual and paraprofessional handbook that paraprofessionals in the Program have access to and can reference with questions. (FF # 4) District also required paraprofessionals in the Program to attend training days ahead of the start of the school year, which specifically targeted supporting all nine Students in Program. (FFs # 9-13). Once the school year began, Special Education Teacher, along with additional District staff such as BCBA, Assistant Director, RBT, Principal, and Paraprofessional Coach, provided consistent supervision and training to the paraprofessionals as they provided support within the Program. (FF #s 14, 17-20). Based on these facts, the CDE finds and concludes that the District complied with 34 C.F.R. §§ 300.156 and 300.207, and ECEA Rule 3.04.

Conclusion to Allegation No. 2: District ensured that staff had access to and an understanding of responsibilities for implementing Students' IEPs, as required by 34 C.F.R. § 300.323(d). District also implemented Students' IEPs from August 14, 2025 through October 2025, as required by 34 C.F.R. § 300.323(c). District complied with the IDEA.

Complainant's concern is that Students' IEPs were not implemented with fidelity from August 2025 through October 2025. (FF #s 25, 61.)

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." *Endrew 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. Students' IEPs: Accessibility

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, Special Education Teacher ensured all teachers and service providers—including paraprofessionals—had access to Students' IEPs or IEP snapshots. (FFs # 21-23.) She maintained a folder in her classroom with copies of the IEP snapshots throughout the year, allowing paraprofessionals continuous access to them. (FF # 24.) These snapshots included the adaptive seating and sensory support accommodations at issue in this investigation. (FF # 22.) Thus, the CDE finds and concludes that District complied with the requirements of 34 C.F.R. § 300.323(d).

C. Students' IEPs: Implementation of 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 accommodations 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?

Prong 1: Was there a Shortfall in Accommodations?

The CDE must first determine whether there was a shortfall between the accommodations required by Students' IEPs versus those made available to Students. 34 C.F.R § 300.323(c)(2).

Adaptive Seating

Here, seven of the nine Students (A, B, C, E, F, H, and I) had accommodations related to adaptive seating. (FF # 25.) The Program, first-grade, kindergarten, and music classrooms all had adaptive seating options on the first day of school. (FF #s 26, 30-32.) There was a gap at the beginning of the school year when the tech and "maker space" classroom did not have adaptive seating and the first-grade classroom did not have a cushion for the first month of school. (FF #s 28-29.) This resulted in a shortfall in Student B's adaptive seating accommodation from August 14, 2025 through September 14, 2025 in the first-grade classroom. (FF # 40.) It also resulted in a shortfall in Student I's adaptive seating accommodation from August 14 through October 2025 in the tech and "maker space" classroom and art classrooms. (FF # 60.) There was no shortfall in adaptive seating accommodations for the other five Students (A, C, E, F, and H). (FF #s 36, 44, 48, 52, 56.)

Sensory Supports

Here, the IEPs for all nine Students contained an accommodation related to sensory supports such as access to fidgets, access to noise cancelling headphones, and the ability to walk to or access a quieter space. (FF #s 61, 67, 70, 73, 76, 79, 82, 85, 88, 91.) District provided this accommodation as required by Students' IEPs from August 14, 2025 through October 2025. (FF #s 69, 72, 75, 78, 81, 84, 87, 90, 93.) The Program, as well as the kindergarten and first grade classrooms, had fidgets and headphones available. (FF #s 62-65.) Paraprofessionals also put together backpacks for items each Student would need during specials, including fidgets and headphones. (FF #s 64-66.) Moreover, Paraprofessional accurately described that Students were allowed to take movement breaks whenever they needed. (FF #s 62, 74, 77, 80, 83, 86, 92.) Thus, there was no shortfall in the provision of this accommodation for Students.

Prong 2: Was the Shortfall Material?

Because there was a shortfall in the adaptive seating accommodation provided versus what was required by two Students' IEPs, the CDE must next determine whether this shortfall represents a material failure to implement the IEP such that Students B and I were denied a FAPE.

Here, Student B was denied one accommodation—adaptive seating—for approximately one hour a week from August 14, 2025 through September 14, 2025. (FF #s 37-40.) Specifically, Student B's accommodation was for a "cushion or block to sit on to prompt crisscross sitting." (FF # 37.) The shortfall in one accommodation was for short increments while classmates were on the floor. (FF # 39.) Notably, Special Education Teacher and Paraprofessional observed that Student B has been successfully sitting crisscross or with her legs out on the carpet for most of the year. (FF # 38.) Student B was provided this accommodation for the entire year while in the Program, and in the first-grade classroom beginning on or around September 14, 2025. (FF #s 38-39.) Ultimately, this noncompliance represented a "short gap" in the accommodation. *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).

Student I did not receive one accommodation—adaptive seating—for approximately two hours per week from August through October 2026. (FF # 60.) Specifically, Student I's accommodation was for "access to alternative seating options." (FF # 57.) The shortfall occurred during two specials classes: in the tech and "maker space" room and in the art classroom. (FF #s 59-60.) Students often moved around in both classrooms and were not always in their seats. (FF # 59.) Though these class periods occurred for two hours a week, the time in which Student I would be sitting during the class would be far less than that. (FF #s 28-29.) Student I did have access to alternative seating while he was in the Program, kindergarten, and music classrooms. (FF #58-59.) Both Art Teacher and Technology Teacher ensured alternative seating options became available in their rooms for Student I later in the year, with the art classroom receiving alternative seating options by the end of October and the tech and "maker space" room receiving them in December. (FF #s 28-29.) Taken as a whole, the time Student I did not have access to alternative seating options was a "short gap" in the accommodation. *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).

For these reasons, the CDE finds and concludes that these shortfalls were not material, and thus District implemented the IEPs for Students B and I, as required by 34 C.F.R § 300.323(c)(2); *see Van Duyn*, 502 F.3d at 821 ("There is no statutory requirement of perfect adherence to the IEP.")

REMEDIES

District complied with the IDEA. 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 5th day of May, 2026.



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Tara Carone
State Complaints Officer

APPENDIX

Complaint, pages 1-12

- Exhibit 1: Emails

Response, pages 1-13

- Exhibit B: IEPs
- Exhibit C: Service Logs
- Exhibit D: List of Service Providers
- Exhibit E: District's Calendar
- Exhibit F: Policies and Procedures
- Exhibit G: Correspondence
- Exhibit I: Verification of Delivery
- Exhibit J: Other Records

Reply, pages 1-11

- Exhibit 2: Timeline

Telephone Interviews

- Director: March 17, 2026
- Complainant: March 19, 2026
- Assistant Director: March 10, 2026
- Special Education Teacher: March 13, 2026
- Principal: March 11, 2026
- RBT: March 10, 2026
- BCBA: March 11, 2026
- Paraprofessional: March 13, 2026
- First Grade Teacher: April 13, 2026
- Kindergarten Teacher: April 16, 2026
- Technology Teacher: April 13, 2026
- Music Teacher: April 14, 2026
- Art Teacher: April 15, 2026