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

State Complaint SC2026-552
Moffat County School District

DECISION

INTRODUCTION

On March 31, 2026, an individual ("Complainant") filed a state complaint ("Complaint") on behalf of two students ("Student A" and "Student B") (collectively, "Students") not currently identified as children with a disability under the Individuals with Disabilities Education Act ("IDEA")[1] against Moffat County School District ("District"). The Colorado Department of Education ("CDE") determined that the Complaint identified two allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

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 March 31, 2025. Information prior to March 31, 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 identify and evaluate Student A—from December 2025 to present—when it was on notice that Student A may have a disability and need special education and related services, as required by 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3).

2. District did not identify and evaluate Student B—from December 2025 to present—when it was on notice that Student B may have a disability and need special education and related services, as required by 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3).

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. Student A attends fourth grade at a District school ("School"). *Exhibit G,* p. 1. He previously qualified for special education services but was found ineligible following an evaluation in 2024. *Exhibit A*, pp. 1, 12.

2. Student A is a happy, caring young man who works hard in the classroom, always has a book out, and wants to learn. *Interview with School's Counselor ("Counselor").* Student struggles with his confidence in the classroom and has a history of behavioral incidents in School. *Id.*

3. Student B, Student A's brother, attends third grade at School. *Exhibit K,* p. 2. He, too, previously qualified for special education services. *Exhibit J,* p. 1. After an evaluation in 2024, Student B was no longer eligible for services. *Id.* at p. 18.

4. Counselor described Student B as "very polite" and "friendly." *Interview with Counselor.* Similar to his brother, Student B has challenges with managing behavior in school, though he has "grown socially and emotionally" throughout this school year. *Id.*

5. This investigation concerns whether District had notice that Students might have a disability and need special education services from December 2025 to present. *Complaint 1,* pp. 3-4; *Complaint 2,* pp. 2-3.

B. District Policies, Practices, and Procedures

6. District's Director of Special Education ("Director") described District's practices and procedures as it relates to child find obligations and initial evaluations. *Interview with Director; see Exhibit T,* p. 1. District relies on the CDE's IEP Procedural Guidance as its main written policies and procedures. *Interview with Director; Exhibit T,* pp. 3-207.

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

7. The child find process may originate from both "internal or external pathways." *Id.* Internally, this often occurs through the Multi-Tiered System of Supports ("MTSS") process when school staff identify a student performing at a lower level than expected. *Id.* Staff implement general education interventions to target the student's areas of struggle, and if these supports do not result in progress, staff then notify School's child support team ("CST") to initiate child find. *Id*. The CST reviews the interventions being implemented, historical grades, any behavioral issues, and other data to determine whether to refer the student for an evaluation. *Id.*

8. Externally, a special education evaluation may be initiated by a parent or another advocate of the student reaching out to District. *Id.* Teachers and other School staff may also refer a student to the CST for a special education referral outside of the MTSS process if they have an indication the student may need specially designed instruction to benefit from general education. *Id.*

9. General education teachers, special education teachers, and related service providers are informed of their child find responsibilities via various professional development opportunities, including new staff training and yearly training on staff's responsibilities regarding child find, initial special education evaluations, and eligibility determinations. *Id.* Director also meets with staff to ensure they are aware of how to refer a student for an evaluation. *Id.*

C. Initial Concerns regarding Students

10. Students began living with a kinship care parent ("Kinship Care Parent") in January 2025. *Interview with Counselor; Exhibit B,* p. 3. The county held regular family engagement meetings to discuss the well-being of Students. *Exhibit F,* p. 30. These meetings often included Kinship Care Parent, Counselor, Students' caseworker, a guardian ad litem, Students private' therapists, and Complainant. *Id.* at pp. 30, 34-35, 38. Complainant served as an educational consultant on this team. *Interview with Complainant.*

11. At a meeting in September 2025, Students' private therapists noted they thought Students needed individualized education programs ("IEPs"). *Exhibit F,* p. 31. Counselor took this recommendation to the CST; however, District declined to move forward with evaluations as described in prior written notices it issued. *Interview with Counselor*; *Exhibit H,* p. 1; *Exhibit Q,* p. 1. The CST based these decisions on Students making "significant social-emotional growth"; Student A achieving at or near grade-level, and Student B showing academic growth. *Exhibit H*¸p. 1; *Exhibit Q,* p. 1.

D. Students' Private Evaluations

12. During Fall 2025, a private psychologist ("Private Psychologist") completed psychological evaluations of both Student A ("Student A Report") and Student B ("Student B Report"). *Exhibit B,* pp. 1-20; *Exhibit K,* pp. 1-19.

Student A Report

13. Private Psychologist administered the Million Pre-Adolescent Clinical Inventory ("M-PACI"). *Exhibit B,* p. 6. The M-PACI is designed to identify "psychological problems in children." *CDE Exhibit 1,* p. 1. His responses indicated that adaptability, conformity, and denial were among his three more prominent traits. *Exhibit B,* p. 6. Student A's responses "suggest[ed] that he [was] experiencing school difficulties that may be associated with attention deficits and hyperdistractibility." *Id.* at p. 7. Making mistakes and unexpected impulsive acts at school were "especially troubling to him." *Id.*

14. Student A also completed the Rorschach Technique ("Rorschach"), which is used in diagnosing and treating individuals with a variety of "psychological problems and psychiatric disorders." *CDE Exhibit 2,* p. 1. In his responses, Student A displayed "serious difficulty in thinking logically, and coherently and demonstrated less ability than most children his age of coming to reasonable conclusions about relationships between events . . ." *Exhibit B,* p. 10.

15. Private Psychologist also used the Wechsler Intelligence Scale for Children– Fifth Edition ("WISC-V") to assess Student A's cognitive functions. *Id*. His full-scale score was in the average range when compared to other students his age. *Id.*

16. The Behavior Assessment System for Children – Third Edition ("BASC-3"), which helps to understand the behaviors and emotions of children and adolescents, was completed by Kinship Care Parent and Student A's general education teacher ("Fourth Grade Teacher"). *Id.* at pp. 15; *CDE Exhibit 3,* p. 1. Fourth Grade Teacher's responses resulted in Student A's scores for Externalizing Problems Composite, Aggression and Conduct Problems, Anger Control and Bullying, and Executive Functioning falling in the Clinically Significant range. *Exhibit B,* pp. 15-17. The Depression scale fell in the At-Risk range, while the Internalizing Symptoms Composite and the Anxiety and Somatization scales were within the Average range. *Id.*

17. Kinship Care Parent's responses in the Internalizing and Behavioral Symptoms Index Composite and Adaptive Skills Composite fell in the Average range. *Id.* at p. 16. On the School Problems scale, her responses resulted in the composite score falling in the at-risk range, including the attention problems and learning problems. *Id.* Kinship Care Parent's responses on Adaptive Skills also fell in the at-risk range. *Id.*

18. After the evaluation, Private Psychologist's diagnostic impressions of Student A included post-traumatic stress disorder ("PTSD"), reactive attachment disorder ("RAD"), and attention deficit/hyperactivity disorder ("ADHD"). *Id.* at p. 18.

19. Private Psychologist recommended sharing Student A Report with School so it may consider appropriate accommodations for Student A. *Id.* at p. 19.

Student B Report

20. Student B Report included relevant history, noting that Student B was diagnosed with Noonan Syndrome and ADHD, amongst other diagnoses. *Id.* Noonan Syndrome can include developmental delays and learning disabilities. *Exhibit K*, p. 3.

21. Student B Report noted that, in February 2025, Student B was evaluated by a developmental pediatrics department. *Id.* at p. 4. At that time, Student B's cognitive scores ranged from significantly low to low. *Id.* at p. 5.

22. As part of his evaluation, Student B completed different cognitive tests. *Id.* at p. 6. Student B's WISC-V full-scale score fell in the low average range when compared to other students his age. *Id.* His General Ability Index was one point away from the average range, falling in the low average range. *Id.* Overall, Student B's scores on the WISC-V "were markedly better than any of his scores on the" intelligence testing from the year prior. *Id.*

23. Private Psychologist administered the Bender Visual-Motor Gestalt, Second Edition ("Bender-Gestalt II"), which assesses visual-motor integration skills. *Id.* at p. 11. Student B's form accuracy and quality fell in the low average range compared to his same-aged peers. *Id.* The errors in Student B's drawings were indicative of possible brain injury or neurological impairment. *Id.*

24. Student B Report noted that, for psychological functioning, he appeared to be "overwhelmed by more emotion than he can tolerate." *Id.* at p. 12. However, Student B may be able to function in a "reasonably adaptive and untroubled fashion in structured situations." *Id.*

25. In emotional functioning, Student B Report recognized Student B's susceptibility to episodes of depression. *Id.* Student B was administered the Rorschach. *Id.* Student B's responses were frequently aggressive, fear-based, and/or sad. *Id.* The Rorschach results showed Student B had "considerable difficulty shifting his attention from one matter to another." *Id.*

26. The BASC-III was administered to Kinship Care Parent and Student B's general education teacher ("Third Grade Teacher"). *Id.* at p. 15. Third Grade Teacher's responses resulted in Externalizing Problems composite, Internalizing, School Problems, and the Behavioral Symptoms Index falling in the at-risk range. *Id.* The Somatization scale fell in the clinically significant range. *Id.* at pp. 15-16. All other scales fell in the average range. *Id.* at p. 16.

27. Kinship Care Parent's responses resulted in Externalizing Problems composite, Hyperactivity, and Conduct Problems scales falling the clinically significant range. *Id.* The Behavioral Symptoms Index, Aggression, Attention Problems, and Atypicality scales fell in the at-risk range. *Id.* All other scales were in the average range. *Id.*

28. Following the evaluation, Private Psychologist determined Student B met the diagnostic criteria for PTSD, RAD, ADHD, Reading Disorder, Disorder of Written Expression, Mixed Receptive-Expressive Language Disorder, Learning Disorder, and Eating Disorder. *Id.* at p. 18. Student B did not meet the clinical criteria for an intellectual disability. *Id.*

29. Student B Report recommended District reconsider whether Student B qualified for an IEP, specifically with an Other Health Impairment ("OHI"), Serious Emotional Disability ("SED"), or Specific Learning Disability qualification. *Id.* at p. 19.

E. Complainant's Request for Evaluations

30. Based on Students' private psychological evaluations and consultations with Students' grandparent ("Grandparent") and Kinship Care Parent, Complainant informed Counselor around January 8, 2026, that she wanted Students evaluated for special education. *Interview with Complainant; Exhibit F,* p. 46; *Exhibit U,* p. 65. Complainant specifically mentioned SED as a possible eligibility category for Student A. *Exhibit F*, p. 46. Additionally, Complainant noted to Counselor that Student B's test scores have been consistently low, including low growth rates, and suggested his new mental health diagnoses warranted evaluation. *Id.* That same day, Student A Report and Student B Report were shared with District. *Exhibit U*, p. 55.

31. During a meeting on January 14, 2026, Counselor informed the CST that Complainant had requested special education evaluations for Students. *Exhibit F,* p. 46; *Exhibit U,* p. 65; *Interview with Complainant.*

F. Student A: District's Response to Request for Evaluation

32. The CST discussed the request to evaluate Student A at its January 14 and February 4, 2026 meetings. *Exhibit F,* pp. 46, 48. In reviewing the request, the CST considered Student A Report, reports from Fourth Grade Teacher and specials teachers, behavioral incident reports, his response to academic intervention, and his academic data. *Interview with Counselor and School's Special Education Teacher ("Special Education Teacher").*

Classroom Observations and Behavior Reports

33. Throughout the 2025-2026 school year, Student A faced disciplinary action for his behavior only three times. *Exhibit C,* pp. 1-9. Each of these incidents involved minor physical altercations with peers, such as biting a classmate's hand, punching a peer, and kicking students at a table. *Id.*

34. During the first half of the school year, Student A often pulled his shirt over his head when he did not want to do something or became overwhelmed. *Id.* Sometimes he also hid under his desk. *Id.* During assemblies when other students were recognized for some accomplishment, Student A would become upset, pull his shirt over his head, and "cause a ruckus." *Id.* However, these behaviors largely subsided after the winter break. *Id.*

35. Fourth Grade Teacher reported that on a "normal day" Student A completed around 75% of his work. *Exhibit F,* p. 34.

36. Overall, Fourth Grade Teacher, Counselor, and Student A's specials teachers reported that Student A showed substantial growth, both emotionally and academically, throughout the school year. *Interviews with Fourth Grade Teacher, Counselor, and Special Education Teacher.*

Response to Interventions and READ Plan

37. Student A had a READ Plan for the 2025-2026 school year. *Exhibit G,* pp. 1-11. His READ Plan goals included that, by the end of the 2025-2026 school year: (1) Student A would be able to read a grade-level text with 99% accuracy; (2) he would be able to read a grade-level text with 96 words per minute (fluency); and (3) he would be able to read and comprehend a grade-level text with a score of 17 in reading comprehension. *Id.* at p. 2.

38. On the first goal, Student A read with 97% accuracy at the beginning of the school year ("BOY"), 98% accuracy at the middle of the school year ("MOY"), and 100% accuracy at the end of the school year ("EOY"). *Id.* at p. 1; *Exhibit X,* p. 1 This accuracy was at his expected grade level. *Id.*

39. On the second goal, Student A read 65 words per minute at BOY, 81 words per minute at MOY, and 148 words per minute at EOY. *Id*; *Exhibit X,* p. 3. While the BOY and MOY fluency scores fell below grade level, Student A's EOY score was above grade level. *Id.*

40. On the third goal, he scored 2.5 on reading comprehension at BOY and 13 at MOY; these scores were below and well below grade level respectively. *Id.* By EOY, Student A scored 16. *Exhibit X,* p. 5. Though this score was an improvement, he remained below grade level. *Id.*

41. Throughout this period, Student A received Tier 2 reading interventions through a classroom intervention group. *Id.* at p. 3. While receiving these interventions, Student A made progress on all his READ plan goals. *Id.* at pp. 6-7.

Academic Data

42. Student A completed MAP testing eleven times throughout the school year. *Exhibit X,* p. 1.

43. Student A's reading accuracy scores fluctuated from below grade level to at grade level during the 2025-2026 school year. *Id.* at pp. 1-2. His reading fluency score was below grade level at the BOY and well below grade level at the MOY. *Id.* at p. 3. By the EOY, Student A scored at grade level, even exceeding the benchmark. *Id.* Student A's reading comprehension score fluctuated similarly, ranging from well below grade level at BOY to at grade level near MOY and below grade level at EOY. *Id.* at p. 5.

44. By the end of the 2025-2026 school year, Student A was in the 98th percentile for growth in reading and the 99th percentile for growth in mathematics. *Id.* at pp. 8, 10. Student A made

steady growth throughout the school year but remained slightly below grade level in reading. *Id.* at pp. 10-11.

45. The grading scale at School uses numbers one through four. *Interview with Fourth Grade Teacher.* A one indicates the student performs well below grade level, while a two shows the student is just below grade level. *Id.* A grade of three represents a grade-level performance, and a grade of four indicates the student is above grade level. *Id.* In the 2025-2026 school year, Student A's grades were largely twos and threes. *Exhibit I,* pp. 4-6.

District's Decision on a Special Education Evaluation

46. The CST reviewed all this data, including Student A Report, in determining whether to evaluate Student A. *Interviews with Counselor and Special Education Teacher.* School staff discussed their relevant areas as the team worked through the information. *Id.* The CST decided Student A was showing great academic growth, and he was no longer having behavioral difficulties. *Interview with Fourth Grade Teacher, Counselor, and School's learning coordinator ("Learning Coordinator").*

47. Based on this information, the CST determined Student A would not be referred for a special education evaluation. *Exhibit H,* p. 2.

48. Following the CST meeting on February 4, District provided prior written notice ("Student A's PWN") of the decision to Grandparent and Complainant. *Id.* at pp. 2-3; *Exhibit U*, p. 92

49. Student A's PWN stated District was not initiating an evaluation for Student A because the team determined he "could receive reasonable educational benefits from general education alone, and no disabilities were suspected by the team." *Exhibit H*, p. 2.

50. Student A's PWN noted Student A "is achieving at or near grade-level in academic areas. He has made significant social-emotional growth and has responded to behavioral interventions. Classroom teacher reports indicate [Student A] does not need any type of accommodations in the classroom and is not displaying any academic or behavioral concerns." *Id.*

51. The team noted that Student A's behavior incidents had subsided significantly after November. *Id.* at p. 2. When considering Student A's private diagnoses in light of his "outstanding" progress during the 2025-2026 school year, the team decided the private diagnoses did not have an educational impact on Student A. *Id.*

G. Student B: District's Response to Request for Evaluation

52. The CST also discussed the request for Student B's evaluation at its January 14 and February 4, 2026 meetings. *Exhibit F,* pp. 46, 48. In reviewing the request, the CST considered Student B Report, reports from teachers, behavioral incident reports, his response to academic

intervention, and his academic data. *Interviews with Counselor and Special Education Teacher.*

Classroom Observations and Behavior Reports

53. Student B was written up for behavioral issues five times during the 2025-2026 school year. *Exhibit L,* pp. 1-10. These behaviors included: crawling on the floor, throwing items in the classroom, pushing peers, and making inappropriate comments. *Id.* at pp. 3-4. One incident resulted in the other students being evacuated from the classroom. *Id.* at p. 4.

54. At the beginning of the year, Student B also exhibited defiant and disruptive behavior. *Interview with Third Grade Teacher.* He crawled around on the floor when he did not want to do what was being asked of him. *Id.* Third Grade Teacher had to call for assistance multiple times at the beginning of the year for another teacher or administrator to come support Student B. *Id.*

55. However, a noticeable change in Student B's behavior occurred around the middle to end of November. *Id.* Student B's hyperactivity decreased. *Interviews with Counselor and Third Grade Teacher.* He started participating, wanting to learn, and showing more independence in the classroom. *Interview with Third Grade Teacher.* He still took "breaks" by going under his desk. *Id.* However, those breaks lasted only a few seconds before Student B could continue focusing in the classroom. *Id.* Student's specials teachers also reported that he would take a break and reset. *Id.*

56. Overall, Third Grade Teacher and Counselor observed Student B make great progress in his behavior during the 2025-2026 school year. *Interviews with Third Grade Teacher and Counselor.*

Section 504 Plan and READ Plan

57. During the 2025-2026 school year, Student B had a Section 504 Plan. *Exhibit P,* p. 2. Student B was initially referred for this plan in February 2024. *Id.* Prior to this referral, Student B had an IEP in place. *Exhibit J,* p. 3.

58. Under the Section 504 Plan, Student B's areas of educational need included impulsivity, aggression, staying in class, and working memory. *Exhibit P*, pp. 3-4.

59. Student B's Section 504 Plan notes that its supports will remain in place until a full special education evaluation. *Exhibit L,* p. 3. This special education evaluation did not occur. *Interviews with Counselor, Special Education Teacher, and Director.*

60. Student B also had a READ Plan during both the 2024-2025 and 2025-2026 school years. *Id.* at p. 8; *Interviews with Counselor and Learning Coordinator.* This year's READ Plan included six goals, including that by the end of the year, Student B would be able to: (1) name 76

correct letter sounds, (2) read 22 whole words, (3) read 32 sight words, (4) read a grade level text with 96% accuracy, (5) read a grade level text at 84 words per minute, and (6) score 6 on comprehension *Id.* at p. 8.

61. On the BOY test, Student B named 51 correct letter sounds, read 14 whole words, read 11 sight words, read a grade level text with 97% accuracy, read a grade level text at 69 words per minute, and received a zero comprehension score. *Id.* at p. 6. The MOY scores were 58 on correct letter sounds, 17 whole words read correctly, 19 sight words, 87% on accuracy, 45 words per minute on fluency, and a 1 on comprehension. *Id.* The EOY score resulted in a 69 on correct letter sounds, 3 whole words read correctly, 22 on sight words, 87% on accuracy, 40 words per minute on fluency, and 0 on comprehension. *Id.* at p. 7. All of Student B's scores except sight words diminished from BOY testing to EOY testing, despite Student B receiving Tier 2 reading intervention services throughout the 2025-2026 school year. *Id.* at pp. 6-8.

Academic Data

62. Like Student A, Student B was tested in multiple reading areas at the BOY, MOY, and EOY. *Exhibit Y,* p. 1. Student B's composite score was well below grade level during each of these time periods. *Id.* Looking back, Student B's composite scores fell well below grade level during each testing period since the beginning of first grade, except the EOY first grade assessment and BOY second grade assessment; both those scores fell below grade level. *Id.*

63. Despite receiving targeted interventions, Student B's letter sounds and decoding scores went from below grade level at the BOY and MOY testing to well below grade level for the EOY test. *Id.* Student B's comprehension score remained at zero by EOY. *Id.* His reading accuracy score is the only score that showed progress. *Id.* There, Student B's score went from well below at the BOY to benchmark by the EOY. *Id.*

64. Student B's lack of progress in reading showed that he was not making progress at a level that would allow him to close achievement gaps or even match the expected growth of his peers. *Interview with CDE Specialist.* Though Student B's reading fluency improved (showing he can read and pronounce words correctly), his comprehension scores showed he lacked any understanding of what he was reading. *Id.*

65. Student B also completed MAP testing throughout the school year. *Id.* at pp. 1-2. Student B's MAP scores in reading went from 164 at the BOY, to 170 in the MOY, to 165 by the EOY. *Id.* at p. 2. Same-aged peers' average scores went from 185 to 189 to 193, showing eight points of growth by the EOY. *Id.* Student B showed only one point of growth during the school year; and his EOY reading score fell in the sixth percentile. *Id.* This was a significant decrease from the BOY, when he scored in the 13th percentile. *Id.*

66. Student B's MAP scores in math went from 165 at the BOY, to 165 in the MOY, to 175 by the EOY. *Id.* The mean score of his peers went from 185 to 197 by EOY, showing an average of 12

points of growth. *Id.* Student B's math scores improved by 10 points and came close to the average expected growth, even though he remained below grade level. *Id.*

67. Student B's grades were mostly threes in his specials classes and in social studies. *Exhibit R,* p. 3-6. In science, Student B received a two. *Id.* at p. 6. Student B showed growth across quarters in reading and math, receiving a one in the first quarter, a two in the second quarter, and a three in the third quarter. *Id.* at pp. 4-5.

District's Decision on a Special Education Evaluation

68. As the CST reviewed this data, School's specialists discussed their relevant areas. *Interview with Counselor and Special Education Teacher.* Learning Coordinator and School's Literacy Coordinator ("Literacy Coordinator") reported that Student B was making progress in the classroom and academically. *Interviews with Counselor and Learning Coordinator.* This included a focus on Student B's progress in reading fluency, which was identified as a first step in improving all reading scores. *Interview with Learning Coordinator.*

69. The CST noted it may need to update the Section 504 Plan to address Student B's impulsivity and the need to stay focused longer to get his work done. *Id.* The CST was uncertain whether Student B's challenges in academics were caused by working memory and intellectual ability or because he was so "distractible." *Interview with Learning Coordinator.* His ability to focus had improved. *Id.*

70. For these reasons, the CST determined that Student B would not be referred for a special education evaluation. *Exhibit Q,* p. 2.

71. The CST drafted a Prior Written Notice ("Student B's PWN") on February 4, 2026. *Id.* Student B's PWN indicated that the team determined Student B could "receive reasonable educational benefits from general education and his 504 Plan alone, and no disabilities were suspected by the team." *Id.*

72. Student B's PWN explained that Student B made "emotional growth and has responded positively to behavioral interventions and new accommodations added to his 504 Plan." *Id.* Additionally, Student B continued to make slow but steady growth in his academics, and "his skills are trending upwards, corresponding to his emotional growth." *Id.*

73. Student B's PWN stated that, when coming to this decision, the team considered the Student B Report, a review of his academic testing, classroom teacher input, and his response to the newly added accommodations in his 504. *Id.*

74. The team determined Student B's new private diagnoses as detailed in the Student B Report did not have an educational input on Student B. *Id.*

75. Student B's PWN was issued to Grandmother via mail in mid-February. *Interview with Director.* It was then issued to Complainant via email on March 3, 2026. *Exhibit U,* p. 92.

CONCLUSIONS OF LAW

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

Conclusion to Allegation Nos. 1 and 2: The District did not have a duty to evaluate Student A and, therefore, acted consistently with 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3) by not evaluating Student A for special education and related services. However, District did not identify and evaluate Student B after the District was on notice that Student B may have a disability and need special education and related services, as required by 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3). This noncompliance did not result in a denial of FAPE.

Complainant's concern is that District did not identify and evaluate Students after District was on notice that they may have a disability and need special education services between December 2025 and present. (FF #s 11, 30.)

A. The Child Identification Process under IDEA

The IDEA mandates that states develop and implement adequate procedures to identify, locate, and evaluate children with disabilities who may need special education and related services. 34 C.F.R. § 300.111(a). In Colorado, the child identification process "shall include child find, special education referral, initial evaluation, and determination of disability and eligibility for special education." ECEA Rule 4.02(1)(a)(ii).

Under the "special education referral" component of the identification process, school districts have an affirmative obligation to evaluate a child where the district has reason to suspect a qualifying IDEA disability and a need for special education and related services. 34 C.F.R. § 300.111(a); ECEA Rule 4.02(1)(a). This obligation exists even where the child advances from grade to grade. 34 C.F.R. § 300.111(a).

"The child find duty is triggered when the school district has reasonable suspicion to believe that a student is a child with a disability." *D.T. ex rel. Yasiris T. v. Cherry Creek Sch. Dist.*, 55 F.4th 1268, 1274 (10th Cir. 2022). Suspicion "may be inferred from written parental concern, the behavior or performance of the child, teacher concern, or a parental request for an evaluation." *Cheyenne Mountain Sch. Dist.*, 117 LRP 25901 (D. Colo. 2017) (quoting *Wiesenberg v. Bd. of Educ.*, 181 F. Supp. 2d 1307, 1311 (D. Utah 2002)). However, "not any one red flag alone is generally sufficient to trigger a special education referral." *Cherry Creek Sch. Dist.*, 119 LRP 30204 (SEA CO 05/17/19).

The threshold for suspecting a disability is relatively low. *Hawaii v. Cari Rae S.*, 158 F. Supp. 2d 1190, 1195 (D. Haw. 2001). The appropriate inquiry by a school district is "whether the child should be referred for an evaluation, not whether the child actually qualifies for the services." *Oxnard Sch. Dist.*, 118 LRP 48450 (SEA CA 11/13/18).

The actions of a school district in terms of whether it had knowledge of, or reason to suspect, a disability must be evaluated in light of the information the district knew, or had reason to know, at the relevant time. *Oxnard Sch. Dist*., 118 LRP 48450 (SEA CA 11/13/18). It should not be based

on hindsight. *Id.*; *see also Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). School districts must systematically seek out IDEA-eligible students and may not take a passive approach and wait for others to refer students for special education. *Compton Unified Sch. Dist. v. Addison*, 54 IDELR 71 (9th Cir. 2010). Remaining vigilant for red flags and referring students who may have a disability and need special education is part of this ongoing obligation. *Arapahoe Cnty. Sch. Dist*. 5, 117 LRP 2988 (SEA CO 12/21/16) (citing *Cincinnati City Sch*., 115 LRP 26069 (SEA OH 5/07/15)).

However, "child find does not demand that schools conduct a formal evaluation of every struggling student," and "schools need not rush to judgment or immediately evaluate every student exhibiting below-average capabilities," especially at a time when students are acclimating to a new school environment. *D.K. ex rel. Stephen K. v. Abington Sch. Dist.*, 696 F.3d 233, 254 (3d Cir. 2012) (finding no child find violation where student was exhibiting behaviors typical of his age and district responded by implementing general education interventions with parents' cooperation); *Cherry Creek Sch. Dist. No. 5*, 125 LRP 10301 (SEA CO 01/11/23) ("[T]he child find obligation does not extend to testing every student who is not successful when factors other than a disability would also explain the failure to progress") (citing *J.N. v. Jefferson Cnty. Bd. of Educ.*, 421 F. Supp. 3d 1288 (N.D. Ala. 2019)). And "mixed academic success does not—in itself—trigger a school district's obligation to evaluate." *Leigh Ann H. ex rel. K.S. v. Riesel Indep. Sch. Dist.*, 18 F.4th 788, 797 (5th Cir. 2021) (finding no child find violation where neither parent or school staff expressed academic or behavioral concerns before parent requested an evaluation, and student was "an average student"); *Brighton 27J Sch. Dist.*, 119 LRP 37633 (SEA CO 06/24/19) (finding no child find violation where student's performance was average and his behavior and academic performance were not sufficient to put the district on notice that student may have an IDEA-qualifying disability).

A school district may attempt pre-referral interventions before initiating an IDEA evaluation. *See, e.g.*, *M.G. v. Williamson Cnty. Schs.*, 720 F. App'x 280, 285 (6th Cir. 2018) (finding district "effectively utilized general intervention strategies" before evaluating student); *Denver Pub. Schs.*, 123 LRP 33002 (SEA CO 03/10/23) (finding no child find violation where district did not have reasonable suspicion that student may be a student with a disability, even given certain behaviors, which district addressed via general education interventions). However, a response-to-intervention process cannot be used to delay or deny an evaluation. *Letter to Ferrara*, 60 IDELR 46 (OSEP 2012). School districts must act within a reasonable time after school officials are on notice of behavior that is likely to indicate a disability. *D.T.*, 55 F.4th at 1274.

In deciding whether District fulfilled its child-find obligations here, the CDE considers the individual circumstances of this case to determine whether District had a reason to suspect that Student needed to be evaluated for special education. *Cherry Creek Sch. Dist*., 119 LRP 30204 (SEA CO 5/17/19); *Weld RE-4 Sch. Dist.*, 119 LRP 5662 (SEA CO 1/2/19) (citing *Clark Cnty. Sch. Dist*., 114 LRP 45477 (SEA NV 8/28/14)).

B. District's Child Find Obligation to Student A

Here, the evidence in the Record demonstrates that District did not have a reasonable suspicion that Student A may have a disability and need for special education and related services between December 2025 and present. (FF #s 13-19, 33-45.)

Complainant's request for an evaluation and Student A's new private evaluations could have raised a suspicion of a need for special education evaluation under different circumstances. (FF #s 11-19, 30.) However, here, the evidence showed Student A's academic performance and behavior both improved during the 2025-2026 school year. (FF #s 33-45.)

Academically, Student A made progress on his goals under his READ Plan while receiving Tier 2 interventions, even scoring at or above grade level on two of his objectives by the end of the year. (FF #s 37-41.) His MAP testing scores progressed toward grade level during the school year. (FF #s 42-45.) Though Student A remained slightly below grade level at the end of the year, his growth in reading fell in the 98th percentile, meaning that Student A made more growth that school year than 98 percent of students his age. (FF # 44.) Taken together, the academic data in the Record shows that Student A was making growth with the support of the interventions in place. (FF #s 37-45.) The academic data, alone, would not have given rise to a suspicion that Student A needed special education.

His behavioral data also did not support such a suspicion. (FF #s 33-36.) Though Student A had some behavioral challenges at the beginning of the school year, School staff saw those behaviors diminish as the school year progressed. (FF # 33-36.) Student A withdrew by hiding in his clothing when he was overwhelmed. (FF # 34.) But, as he adjusted, these behaviors became less frequent. (Id.) Student A's teacher reported he completed approximately 75 percent of his work on a given day, indicating that his behaviors were not preventing him from accessing the general education curriculum. (FF # 35.) The Record overall reflects that District had no reason to suspect that Student A may have a disability requiring special education and related services between December 2025 and present. (FF #s 13-19, 33-45). The CDE thus finds and concludes that District complied with 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3).

C. District's Child Find Obligation to Student B

Here, the evidence in the Record demonstrates that District had a reasonable suspicion that Student B may have a disability and need special education and related services between December 2025 and present. (FF #s 20-29, 53-66.)

Unlike Student A, Student B's academic data showed little progress during the 2025-2026 school year, despite him receiving Tier 2 reading intervention services. (FF #s 57-67.) Notably, despite these interventions, Student B either regressed or remained at a reading level well below his peers. (FF #s 58-65.) His composite reading score fell well below grade level throughout the 2025-2026 school year and, indeed, had been well below grade level for most of the past three school years. (FF #s 62.) Though District staff pointed to progress in accuracy, Student B's

comprehension score at the end of the 2025-2026 school year remained at zero, meaning he did not understand any of the words he was reading. (FF #s 61, 63.) Student B's reading score on MAP testing grew only one point during the 2025-2026 school year. (FF # 65.) As a result, his score fell from the 13th percentile at the beginning of the year to the sixth percentile by the end of the year. (Id.) Across assessments and despite targeted intervention, Student B's reading scores alone raised suspicion that Student B might need to be evaluated for special education. Requests for evaluation by Complainant and concerns expressed by Student B's caregivers and private therapists only reinforced the existing suspicion. (FF #s 11, 30.)

The Record overall reflects that School had a reason to suspect that Student B may have a disability requiring special education and related services between December 2025 and present. (FF #s 20-29, 53-66). Thus, the CDE finds and concludes that District did not comply with 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3).

D. No Denial of FAPE

Procedural noncompliance with the IDEA results in a denial of FAPE if it (1) impeded the child's right to a FAPE, (2) significantly impeded the parent's opportunity to participate in the decision-making process, or (3) caused a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Knable ex rel. Knable v. Bexley City Sch. Dist.*, 238 F.3d 755, 765-66 (6th Cir. 2001). For a district to be held liable for a denial of FAPE, the student must be a student with a disability. *D.G. v. Flour Bluff Indep. Sch. Dist.*, 481 F. App'x 887, 893 (5th Cir. 2012) (holding that a school district cannot be held liable for a denial of FAPE unless the student has a need for special education).

Here, since Student B's status as a child with a disability requiring special education has not been determined, there is no basis for the CDE to conclude that the procedural noncompliance resulted in a denial of FAPE. *See Pueblo Sch. Dist. 60*, 124 LRP 36441 (SEA CO 05/31/24) (finding that it cannot be known until after an evaluation and eligibility determination whether a student will qualify for special education); *Douglas Cnty. Sch. Dist.*, 119 LRP 30196 (SEA CO 04/15/19); *D.G.*, 481 F. App'x at 893. For this reason, the CDE finds and concludes that District's noncompliance did not result in a denial of FAPE.

This conclusion, however, does not preclude the CDE from ordering a remedy to address the effect of District's noncompliance. Accordingly, the CDE will order District to complete a special education evaluation for Student B to determine whether he is eligible for special education and related services.

Systemic IDEA Noncompliance: This investigation does not demonstrate noncompliance that is systemic in nature and likely to impact the future provision of services for all children with disabilities in District if not corrected.

Pursuant to its general supervisory authority, CDE must consider and ensure the appropriate future provision of services for all IDEA-eligible students in District. 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).

Nothing in the Record suggests that the noncompliance in this investigation is systemic. District adheres to the CDE's Procedural Guidance Document as its main guidance for IDEA compliance. (FF # 6). District accurately described its responsibilities within these procedures and provides training on child find for staff at all levels. (FF #s 6-9). Ultimately, the noncompliance in this investigation related to the specific circumstances of this individual student. (FF #s 33-36, 53-66). For these reasons, the CDE finds and concludes that the noncompliance is not systemic.

REMEDIES

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

1. Not identifying and evaluating Student B once it was on notice that Student B might have a disability and need special education, as required by 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3).

To demonstrate compliance, District is ORDERED to submit a corrective action plan ("CAP") by **Friday, July 10, 2026** that adequately addresses how the cited noncompliance will be corrected through the completion of the following remedies:

1. **Final Decision Review**

    a. Director, Counselor, Learning Coordinator, Third Grade Teacher, Fourth Grade Teacher, and Special Education Teacher must each read this Decision in its entirety, as well as review the requirements of 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3), by **Friday, July 24, 2026**. If these individuals are no longer employed by District, District may substitute individuals occupying identical roles to demonstrate compliance with this remedy. A signed assurance that this information has been read and reviewed must be provided to the CDE no later than **Friday, July 31, 2026.**

2. **Evaluation of Student B and Determination of Eligibility**

    a. By **Monday, October 19, 2026,** District must conduct a comprehensive evaluation of Student B in all areas of suspected disability. District 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. §§ 300.301, 300.304. The evaluator(s) must be appropriately licensed, trained, and knowledgeable to conduct the assessments.

a. Consent for the evaluation must be obtained no later than **Wednesday, September 2, 2026**. If Kinship Care Parent does not provide consent within 10 days of receiving the request to evaluate, District will be excused from conducting the evaluation ordered in this Decision provided District diligently attempts to obtain consent. A determination that District diligently attempted to secure consent for evaluation, and thus should be excused from evaluating Student B, rests solely with the CDE. If Kinship Care 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 Kinship Care Parent refused consent by adding conditions rests solely with the CDE.

b. Evidence that this evaluation has occurred—including consent to evaluate and the evaluation report—shall be provided to the CDE by **Friday, October 23, 2026**.

b. By **Monday, October 26, 2026**, District must convene a multi-disciplinary team to determine Student B's eligibility for special education in light of District's evaluation. The determination must be consistent with the IDEA's procedures at 34 C.F.R. § 300.306.

a. District must provide Kinship Care Parent a copy of the evaluation report at least three business days prior to the scheduled eligibility meeting.

b. Should the multidisciplinary team determine that Student B is eligible for special education and related services, District 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 B.

c. Evidence that the eligibility determination has been completed—including the evaluation report, confirmation that the report was provided to Kinship Care Parent, notice of meeting, the eligibility determination, any resulting prior written notice, notice of the IEP meeting (if applicable), and finalized IEP (if applicable)—must be provided to the CDE by **Monday, November 30, 2026.**

NOTE: CDE Special Education Monitoring and Technical Assistance Consultant will contact District 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 District timely correction of the areas of noncompliance. If District does not meet the timelines set forth above, it may adversely affect District's annual determination under the IDEA and subject District 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 ("SCO").

Dated this 12th day of June, 2026.

Tara Carone

Tara Carone
State Complaints Officer

APPENDIX

Complaint 1, pages 1-5

- Exhibit 1: Student A Special Education Documentation

Complaint 2, pages 1-6

- Exhibit 2: Student B Special Education Documentation

Response, pages 1-11

- Exhibit A: Student A Evaluations and Assessments
- Exhibit B: Student A Documentation from Complainant
- Exhibit C: Student A Disciplinary Records
- Exhibit F: Student A Meeting Documentation
- Exhibit G: Student A MTSS Documentation
- Exhibit H: Student A NOMs, PWNs
- Exhibit I: Student A Schedule, Grades, Attendance
- Exhibit J: Student B Evaluations and Assessments
- Exhibit K: Student B Documentation from Complainant
- Exhibit L: Student B Disciplinary Records
- Exhibit P: Student B MTSS Documentation
- Exhibit Q: Student B NOMs, PWNs
- Exhibit R: Student B Schedule, Grades, Attendance
- Exhibit S: 2025-2026 Student Calendar
- Exhibit T: Policies and Procedures
- Exhibit U: Correspondence
- Exhibit W: Verification of Delivery
- Exhibit X: Student A Additional Records
- Exhibit Y: Student B Additional Records

Reply, pages 1-3

- Exhibit 3: Student A Private Evaluation
- Exhibit 4: Student B Private Evaluation

Telephone Interviews

- Director: May 8, 2026
- Special Education Teacher: May 6, 2026
- Counselor: May 7, 2026
- Learning Coordinator: May 8, 2026

- Third Grade Teacher: May 8, 2026
- Fourth Grade Teacher: May 8, 2026
- Complainant: May 11, 2026