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

State Complaint SC2026-555
Jeffco Public Schools

DECISION

INTRODUCTION

On April 2, 2026, the parents ("Parents") of a student ("Student") identified as a child with a disability under the Individuals with Disabilities Education Act ("IDEA")[1] filed a state complaint ("Complaint") against Jeffco Public Schools ("District"). The Colorado Department of Education ("CDE") determined that the Complaint identified four 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 April 2, 2025. Information prior to April 2, 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 conduct a comprehensive evaluation of Student in April 2025 because it did not use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about Student's literacy and access needs, including information provided by Parent, as required by 34 C.F.R. § 300.304(b)(1).

2. District did not develop, review, and revise an Individualized Education Plan ("IEP") on May 8, 2025 that:

    a. Included a statement of the special education and related services—specifically for literacy, literacy mode, and intervener support—to enable Student to advance appropriately toward attaining annual goals, as required by 34 C.F.R. §§ 300.320, 300.324 and ECEA Rule 2.31.

    b. Included measurable annual IEP goals—specifically in literacy—to enable Student to be involved in and make progress in the general education curriculum as required by 34 C.F.R. § 300.320(a)(2)-(3) and ECEA Rule 2.31.

    c. Considered the academic, developmental, and functional needs of Student—specifically in literacy and access to instruction—as required by 34 C.F.R. § 300.324(a)(1)(iv) and ECEA Rule 2.31.

    d. Considered the language and communication needs of Student—specifically in the case of Student who is deaf or hard of hearing—as required by 34 C.F.R. § 300.324(a)(2)(iv) and ECEA Rule 2.10.

    e. Considered the concerns of Parents for enhancing the education of Student—specifically related to literacy needs and intervener support—as required by 34 C.F.R. § 300.300.324(a)(1)(ii) and ECEA Rule 2.31.

3. District did not convene an IEP Team at Parent's request to review and, as appropriate, revise Student's IEP between October 2025 and March 2026 to:

    a. Address Parent's concerns with Student's safety, as required by 34 C.F.R. § 300.324(a)(1), (b); and

    b. Consider the use of positive behavioral interventions and supports to address Student's behavior, as required by 34 C.F.R. § 300.324(a)(2), (b).

4. District did not implement Student's IEP between March 12, 2026 and present because it:

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

b. Did not provide accommodations listed in the IEP—specifically because the "behavior contingency plan" interfered with access to predictable routines and word prediction software—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. Student is 11 years old and attends a separate school ("School") in District. *Exhibit A-1*, p. 1. Student and his family reside within the boundaries of District. *Id*.

2. Student is eligible for special education as a child with deaf-blindness, hearing impairment, orthopedic impairment, other health impairment, and visual impairment. *Id*. Student has profound bilateral hearing loss, as well as several diagnoses that impair his vision. *Id*. at p. 32. His dual sensory loss impacts both his academic access and his social-emotional development, as he may miss out on academic or social information "that occurs incidentally." *Id*.

3. Student is very curious and interested in social studies, especially maps, and science. *Interviews with Student's literacy teacher ("Literacy Teacher"), School's literacy interventionist ("Interventionist") and Student's classroom teacher ("Teacher")*.

4. School serves Deaf students from age 3 through grade 12, and is a public school chartered under the authority of District. *Interview with the director of School ("Administrator")*. There are currently eight students with deaf-blindness enrolled at School, including four with the same diagnosis as Student. *Interview with District's teacher of the visual impaired ("TVI")*.

B. Literacy Instruction at School

5. American Sign Language ("ASL") is a fully developed language distinct from English. *Interview with Literacy Teacher*. It is a conceptual language with a unique word order and distinct grammar and sentence structure as compared to English. *Id*.

6. School offers a bilingual program with instruction in ASL and English. *Interview with Administrator*. All teachers and almost all staff and providers are fluent in ASL, and instruction is provided directly from teachers in ASL, without the use of interpreters. *Id*.

7. To teach English, staff at school must teach students to bridge from ASL to a secondary language. *Interview with Teacher*. This includes making sure the children have the necessary

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

visual concept for a word in ASL before teaching the English words. *Interviews with Literacy Teacher and Interventionist*.

8. School teaches literacy using a variety of curricula for Deaf students. *Interviews with Teacher and Literacy Teacher*. This includes HMH Into Reading as a baseline reading curriculum, supplemented with programs designed for Deaf learners. *Id*.

9. The Bedrock Literacy Program ("Bedrock") teaches students to recognize sight words "specifically selected for ASL users." *Exhibit D*, p. 1. Bedrock includes both lists of words and a curriculum for teaching those words to Deaf students. *Interview with Literacy Teacher*. For example, students might learn a word in ASL and use it in a sentence with ASL before learning to recognize the printed word and eventually write it. *Id*.

10. Fingerspelling Our Way to Reading ("FOWTR") teaches phonological awareness and word recognition visually using fingerspelling. *Exhibit D*, p. 1. This supports students with spelling, as well as breaking down and recognizing new words. *Interviews with Teacher and Literacy Teacher*. This helps them "decode words and recognize printed words more effectively." *Exhibit H*, p. 12.

11. School is a separate school setting, where all the teachers are licensed special educators. *Interview with Administrator*. Literacy instruction is provided for two hours each morning and individualized to the needs of each student. *Interviews with Literacy Teacher and Teacher*. Each student works on an individualized Bedrock lists and materials at their own reading level. *Id*. Students with more significant literacy delays meet one-on-one with Interventionist for 30 minutes one to three times per week, depending on their level of need. *Id*.

C. Language Deprivation

12. Language deprivation—or the "lack of developmentally-appropriate proficiency in any natural language"—is common among Deaf children, perhaps impacting as many as 70%. *CDE Exhibit 1*, pp. 1-3. Language deprivation in the first five years of life can have adverse consequences across multiple domains, including literacy development. *Id*. at p. 3.

13. "[L]anguage proficiency plays a critical role in shaping literacy outcomes for [D]eaf students." *CDE Exhibit 2*, p. 16. Deaf children's reading and writing scores increase as their language proficiency levels increase. *Id*. at p. 14. At every language proficiency level, "writing scores outpace reading scores." *Id*.

14. Hearing students generally enter school with approximately five years of language that they have acquired through incidental learning—that is, through everyday interactions with their parents and environment. *Interview with Literacy Teacher*. They enter school with social language and then focus on developing academic language. *Id*.

15. Due to language deprivation, many Deaf students enter school with almost no language. *Id*. As a result, they must learn both social and academic language before learning to read. *Id*. To

compensate, a lot of instructional time is spent ensuring students have the necessary background knowledge to learn English words. *Interview with Interventionist*.

16. Student enrolled in second grade at School in the fall of 2022. *Exhibit H*, p. 1. At the time, Student had very limited ASL skills. *Interview with Administrator*. A year later, as Student entered third grade, he communicated with "limited signs and short phrases," and his academic ASL comprehension was at a beginning kindergarten level. *Exhibit 1*, pp. 111-112.

D. Deafblind Consultation

17. During an IEP Team meeting in October 2024, Parents asked about a "literacy evaluation" to better understand how Student's disability was impacting his progress with reading. *Exhibit A-2*, p. 17. District agreed to consult with someone from the CDE's "Deafblind Project" for guidance on what evaluations could be completed. *Id*. at p. 30. The "Deafblind Project" is a grant-funded program providing technical assistance to "families, education teams and service providers of children" with deafblindness. *CDE Exhibit 3*, p. 1.

18. On January 29, 2025 a deafblind specialist from the "Deafblind Project" ("Specialist") observed Student during literacy instruction. *Exhibit 2*, p. 10. Specialist noted that School was implementing Student's IEP accommodations, and he was enthusiastically participating. *Id*. Specialist did not recommend any formal assessments but suggested additional opportunities for tactile exploration, like allowing him to handle a small statue during a related lesson. *Id*.; *Exhibit R-1*, p. 181. Specialist noted that his "language [wa]s still developing," so continuing to engage him in communication would help him develop his language and, in turn, support his "word identification and reading comprehension." *Id.* at pp. 98, 180-183.

19. Parents were concerned that Specialist's observation indicated that Student accessed "the curriculum using his vision, hearing, and tactile senses," when Student cannot access material auditorily. *Id*. at pp. 182, 189. Parents questioned whether a single brief observation provided a sufficient basis for meaningful recommendations and disagreed with the sufficiency of the recommendations. *Id*. at p. 189.

E. Parents' Request for Reevaluation

20. On January 30, 2025, Parents sent Administrator a written request for a "literacy evaluation" to help determine what was contributing to his limited progress. *Exhibit 4*, p. 10. On February 19, 2025, District agreed to conduct a comprehensive reevaluation ("Reevaluation") of Student in response to Parents' request. *Id*. at pp. 29-31.

21. District proposed evaluating Student in the areas of general intelligence, communicative status, academic performance, social and emotional status, health, motor abilities and vision. *Exhibit S*, p. 1. The Reevaluation would also include a review of the assistive technology ("AT") report completed by District's AT team and Specialist's report. *Id*. Parents provided consent for the Reevaluation on March 12, 2025. *Id*. at p. 4.

22. Prior to completing the Revaluation, School's IEP Coordinator ("Coordinator") sent Parent a detailed assessment plan, including an explanation of how District would be evaluating several concerns identified by Parents and why it would not be using some of the assessments suggested by Parents. *Exhibit R-1*, pp. 1-6.

F. April 2025 Reevaluation

23. The Reevaluation was dated May 8, 2025. *Exhibit H*, pp. 1-33. It included information from Student's doctor regarding his vision, including diagnoses and corrected acuities. *Id*. at p. 1. The Reevaluation reviewed cognitive testing results from an independent evaluation submitted by Parent from 2020 and included updated testing completed by District. *Id*. at pp. 2-4. Student scored in the average range on nonverbal cognitive testing both years. *Id*. at pp. 2-3. Only his verbal comprehension scores fell below average. *Id*. at p. 4.

24. District conducted several assessments to evaluate Student's ASL abilities. *Id*. at pp. 4-7. Student made progress on all the assessments and performed around the midrange on the criterion-referenced assessments. *Id*. His receptive skills were in the average range, while his expressive skills continued to reflect a moderate delay. *Id*. at pp. 5-6. In ASL, he was able to access academic information at the level of a first grader in the third month, an improvement of almost a year in less than one school year. *Id*. at p. 7. Strengthening "his social ASL expressively and receptively" would allow him to increase his grade-level comprehension. *Id*.

25. Academically, on the Kaufman Test of Educational Achievement ("KTEA"), Student scored in the first percentile in reading and writing. *Id*. at pp. 7-8. Specifically, Student performed at a first-grade level in letter-word recognition, reading comprehension, and spelling and a mid-kindergarten level in written expression. *Id*.

26. On the Measurement of Academic Progress ("MAP") reading assessment, Student was also at the first percentile and at the 11th percentile for growth for vocabulary acquisition and comprehension of literary and informational texts. *Id*. at p. 10. On the MAP language assessment, he scored at the 17th percentile and at the 99th percentile for growth. *Id*. at p. 16. Both assessments also identified specific skills for Student to target. *Id*. at pp. 10, 11, 16.

27. On the Developmental Reading Assessment ("DRA"), Student was reading independently at a level 10 and was an emerging level 12 reader. *Id*. at pp. 9-10. On the Oral and Written Language Scales ("OWLS"), Student scored below the first percentile, with challenges across most skill categories. *Id*. at p. 16.

28. In Bedrock, Student recognized 209 words from Year 1 and 81 words from Year 2. *Id*. at p. 11. On an assessment of the last three FOWTR units, Student scored a 65%, with equal "errors in both reading and fingerspelling." *Id*. at p. 12.

29. He scored in the average range, near a fourth-grade level, on math computation and at the fifth percentile, a second-grade level, on math concepts and applications on the KTEA. *Id*. at pp. 7-8. Student also performed at grade-level on two other math evaluations. *Id*. at pp. 8-9.

30. On social emotional assessments, teachers noted that Student struggled with changes and transitions, benefitting from a fixed routine. *Id*. at p. 17. However, he was increasingly able to use language to develop his coping skills in response to negative feelings. *Id*. He required frequent breaks for fatigue and emotional regulation. *Id*. Parents declined to complete rating scales for these assessments, so the results relied on information provided solely by School staff. *Id*. at pp. 17, 20.

31. In class, Student engaged with his work when provided frequent breaks. *Id*. Student also had dedicated adult support to help with adaptive skills including "routine changes, socializing, working on his tasks independently, and clearly communicating his needs and wants." *Id*. at p. 19. With dedicated adult support, he met expectations for appropriate behavior at School and was "learning how to interact and join activities with his peers." *Id*. at pp. 20-21.

32. The Reevaluation also reviewed Student's diagnoses and health, including information provided by Parents. *Id*. at pp. 21-25. Student had no functional hearing and relied on ASL as his primary language. *Id*. at p. 25. In addition, it included physical therapy and occupational assessments which indicated challenges with movement, sensory regulation and social conventions. *Id*. at pp. 26-28.

33. The Reevaluation included functional vision and learning media assessments conducted by TVI. *Id*. at pp. 28-31. With glasses, Student's distance vision was 20/25 in one eye and 20/60 in the other, while his near vision was 20/25 in one eye and 20/30 in the other. *Id*. at pp. 28-29. As a result of his diagnoses, Student was likely to struggle with vestibular-ocular reflex, or his ability "to maintain a stable visual field, follow moving objects with his eyes or tell whether it is [him] or the object moving." *Id*. at p. 29. Keeping his head stable and providing appropriate postural positioning was likely to help Student. *Id*.

34. In a classroom setting, Student was able to read at 20 feet what someone with 20/20 vision could read from 50 feet away. *Id*. From five to six feet away, Student was able to read one-to-two-inch sized words written on the whiteboard in a variety of colors, although darker markers were easier to read. *Id*. With his near vision, Student was able to read the equivalent of 8-point font and indicated a preference for 10-point font, but TVI recommended increasing the size of print and reducing visual clutter to benefit Student. *Id*. at pp. 29-30.

35. Student had a strong preference for one eye over the other. *Id*. at p. 30. Though Student had no difficulty seeing various colors or identifying images in low contrast pictures, TVI recommended providing high contrast materials "to prevent visual fatigue." *Id*. Student had some difficulty tracking objects in certain peripherals but could do so by turning his head. *Id*.

36. TVI identified that Student had trouble shifting his gaze from near to distant objects and recommended giving him extra time to do so. *Id*. Student primarily accessed information through visual channels and had several pieces of AT to support that. *Id*. Visual mode with optical enhancement was Student's primary literacy mode. *Id*. at p. 31.

37. Parents indicated that the "urgency of [Student's] literacy needs" was lost within the broader Reevaluation. *Exhibit R-1*, p. 95; *Complaint*, p. 31. They wanted to see "a clear, targeted response to [Student's] literacy profile and support needs" and, based on past experience, disagreed with the idea that "continued language growth alone [would] lead to literacy gains." *Exhibit R-1*, pp. 95, 187. Parents also believed the Reevaluation lacked an assessment of Student's need for an intervener, a specialized paraprofessional to support Student's access to his education. *Complaint*, p. 31.

G. Student's IEP

38. After receiving drafts of the Reevaluation, Parents emailed Administrator and Coordinator several concerns in written statements on May 6 and 8, 2025. *Exhibit R-1*, pp. 93-96, 184-203. On May 8, an IEP Team including Parents, District's assistant director of special education ("Assistant Director"), Interventionist, School's school psychologist ("Psychologist"), TVI, a nurse, Administrator, two other teachers of the deaf ("TODs"), an occupational therapist, a physical therapist, and Coordinator met to develop a new annual IEP ("IEP") for Student based on the Reevaluation. *Exhibit E*, p. 1.

Present Levels

39. The student strengths and present levels sections summarized the Reevaluation and Student's prior goals. *Exhibit A-1*, pp. 4-31. He made progress on his prior math goal and was performing at grade level. *Id*. at p. 10. He also made progress on his prior reading goals but was still performing well below grade level. *Id*. at pp. 11-13. He made progress on his social emotional goals but needed to continue working on all of them. *Id*. at p. 21.

40. It also included observations from three of Student's teachers. *Id*. at pp. 8-9. Teacher and another TOD observed that Student struggled with changes in routine and required reinforcement (positive or negative) to get back to work. *Id*. He needed frequent prompts to stay on task, despite sensory breaks every other hour, and extra time. *Id*. However, "[w]ith consistent structure, visual supports, sensory regulation opportunities, and adult guidance, [Student was] able to engage in classroom activities and access the curriculum in a meaningful way." *Id*. Interventionist observed that Student was working to expand his vocabulary but had a harder time remembering "abstract words that he does not use in his everyday first language" like pronouns. *Id*.

41. Parents questioned whether District acknowledged the impact of Student's disabilities on his access to literacy instruction. *Exhibit R-1*, p. 94. They requested a "clearly defined,

individualized literacy intervention plan for" Student. *Id*. at p. 95. In response, District added information about School's approach to literacy instruction to the IEP. *Exhibit R-1*, at p. 48.

42. The IEP described the Bedrock curriculum, as well as Student's progress in it: he could identify 290 sight words out of 600 in the first two lists. *Id*. at pp. 13-14. In FOWTR, Student scored a 65% when recognizing print words and fingerspelling vocabulary words in pictures. *Id*. at p. 14. He had the same number of errors "in both reading and fingerspelling." *Id*.

43. To support his literacy development, Student received specialized instruction from TODs in: (1) phonological awareness and word recognition; (2) vocabulary development; (3) reading comprehension and fluency; and (4) writing skills. *Id*. Services were provided in both small group and 1:1 settings. *Id*. Student worked on the first area using FOWTR which helps "students understand the structure of English words" as they cannot access the sounds hearing students use to learn phonics. *Id*. at p. 15. Student received "explicit decoding instruction using fingerspelling and print word connections, including work with CVC patterns and word families." *Id*.

44. Student also received direct instruction for vocabulary development using Bedrock, with modeled and guided practice embedded in reading and writing. *Id*. He worked on reading comprehension and fluency in "small-group guided reading" at his level with "[s]caffolded instruction to support the development of skills . . . to bridge English and ASL concepts." *Id*.

45. For writing, Student received "ASL-to-English scaffolding" including prewriting and retelling in ASL and grammar lessons using "ASL/English contrastive analysis." *Id*. He made progress on his prior writing goal but continued to need significant teacher support for writing, including help with "spelling and making connections to English words and phrases." *Id*. at p. 16. His writing was improving, but he still "express[ed] a lot more detail in his ASL stories." *Id*.

46. The present levels section was adjusted to address Parents' concerns with a writing sample and content in the health report. *Id*. at p. 48. Parents shared additional concerns with the health report after the meeting and District made further adjustments. *Id*.

Student Needs and Impact of Disability

47. Student's "unique combination of disabilities significantly impact[ed] his ability to access and engage with the general education curriculum without extensive supports, services, and accommodations." *Id*. at p. 32. As a result of profound bilateral hearing loss, Student relied on ASL as his primary language. *Id*. Hearing loss also "limited access to incidental language and environmental vocabulary, contributing to delays in both receptive and expressive ASL language development." *Id*. The language delays impacted his "phonological awareness, vocabulary development, reading comprehension, writing, math word problems," retention and academic fluency. *Id*.

48. Due to visual impairments, he required "specialized technologies and adaptations of his materials" to meaningfully participate in class. *Id*. As a result of the dual sensory loss, he required "direct, explicit instruction in ASL" and "additional time to process information." *Id*. Because it also caused him to miss out on peer interactions and other incidental environmental information, Student also required "structured opportunities for peer interaction in ASL to build his social communication skills." *Id*. Social stories and adult modeling supported "his understanding of emotion and appropriate social behaviors." *Id*.

49. As a result of sensory processing difficulties, he required "carefully balanced sensory input to remain engaged without becoming overwhelmed." *Id*. Adult support was necessary to address various medical and mobility needs. *Id*. To "fully access the curriculum and school environment," Student required adult support "to facilitate communication, engagement, and safety" and support behavioral regulation." *Id*. Adult support was needed for "structured peer engagement to model and practice age-appropriate communication and social interaction." *Id*. Finally, he required "multisensory strategies, visual and tactile supports, and authentic social opportunities in ASL to meet his academic and developmental needs." *Id*.

Parent Input

50. The IEP included a summary of several parent concerns identified in the written communication before the meeting, as well as how the draft was adjusted to address those concerns. *Id*. at p. 33. For instance, during the meeting, Parents raised issues with the writing sample, which was replaced, and the accuracy of several sections, which were revised. *Id*. at pp. 33, 48. The service delivery section and health report were amended to address concerns raised during and after the meeting, including about literacy services. *Id*. at pp. 33, 34, 48.

51. According to the embedded prior written notice ("PWN"), Parents requested that their feedback on the draft IEPs be included in the IEP in their entirety. *Id*. at p. 48. This was rejected, as parent input was collected throughout the process, "documented throughout the IEP," and "used to inform educational planning and enhance" the IEP. *Id*. Any suggestions not adopted by the IEP Team were documented in the embedded PWN. *Id*.

Goals and Accommodations

52. Parents raised concerns with Student's literacy goals in the draft IEP, which they found to be insufficient for the scope of Student's needs and either too narrow or too broad and unrealistic. *Id*. at pp. 197-201. Parents brought new draft goals to the meeting and advocated for goals that specified the accommodations or services that would be provided to Student. *Id.* at pp. 197-198; *Interviews with Interventionist and Assistant Director*.

53. Specifically, Parents requested "meaningful literacy goals based on [Student's] actual instructional level, with progress benchmarks that reflect an appropriate pace of learning." *Exhibit R-1*, pp. 95-96. The goals were ultimately adjusted in consideration of Parents'

feedback and included objectives and specifics Interventionist does not typically include in IEPs. *Interview with Interventionist*.

54. The IEP contained 11 goals, including six relevant here:

    - **Reading:** Using Bedrock, Student would accurately identify and define all 300 words on the Year 1 list and at least 200 words from Year 2, up from a combined total of 290 words. This goal had two objectives: one for recognizing the words in print and sign and another for defining them.

    - **Reading:** Student would answer "comprehension and story element questions (e.g. character, setting, problem, solution, key events, inference) with an average of 80% accuracy" given guided reading instruction on level 24/M texts. His baseline was 90% accuracy on level 10/F texts. This goal was broken down into three objectives over the year, moving from level 10 to 14 then 18 and finally 24.

    - **Writing:** "given explicit instruction and visual supports, [Student would] write complete sentences that include a subject and predicate, a capital letter at the beginning, and correct ending punctuation with 80% accuracy" on three writing samples, from a baseline of 0%. The first objective focused on writing sentences that included both a subject and predicate in four out of five opportunities, while the second required using correct capitalization and punctuation 80% of the time.

    - **Social\Emotional Wellness:** Student would "independently and appropriately initiate or join peer activities during unstructured settings" without prompting in 4/4 opportunities, up from 2/4.

    - **Social\Emotional Wellness:** Student would "independently seek and use sensory tools and strategies to regulate his emotions during dysregulated moments, utilizing visual aids and requiring minimal staff prompting in 80%" of opportunities, up from 50%.

    - **Social\Emotional Wellness:** Student would "effectively communicate his feelings and the reasons behind them in ASL in 80% of relevant situations," up from 50%.

    Exhibit A-1, pp. 34-40.

55. The IEP included 41 accommodations, including: (1) preferential seating to maximize his visual access; (2) a "hands on, multisensory approach"; (3) large print with "bold, san serif fonts"; (4) low vision devices for near and distance viewing; (5) personal copy of materials presented on the board; (6) use of high contrast for materials and the board; (7) visual breaks for every 10 minutes of screen time; (8) movement breaks at least four times per day for self-regulation and sensory overwhelm; (9) direct teaching of "social skills and social communication"; (10) provide structure; (11) "[d]irect instruction in vocabulary and

structures of language using visuals, tactile components, and experiences"; (12) "[s]ign[ing] items not at his reading level"; (13) rest breaks when Student shows signs of fatigue, as he "tires easily"; and (14) assistance to prevent injury. *Id*. at pp. 40-41.

Special Education and Related Services

56. The IEP included 1,828 minutes per week ("MPW") of direct special education services with a TOD, outside of general education. *Id*. at p. 46. According to the service delivery statement ("SDS") those services would be provided in ASL to support "core academics, ASL language skills, and peer interactions." *Id*. at p. 45. The services would include "expanding ASL vocabulary, developing ASL grammar, and enhancing ASL communication." *Id*.

57. After considering Parents' feedback, District included additional details in the SDS about how the TODs would address Student's literacy needs. *Id*. Instruction from a TOD would include 375 MPW "of specialized instruction to support progress in [Student's] Reading and Writing IEP goals" and 90 MPW of specialized support from a literacy interventionist "to support phonological and word recognition, vocabulary development, reading comprehension and fluency." *Id.* at pp. 45-46. All the services would be provided by a TOD, so they were listed on one line in the service delivery grid. *Id*.; *Interview with Assistant Director*.

58. Student would also receive direct and indirect instruction from physical and occupational therapists and indirect support from a nurse. *Exhibit A-1*, pp. 45-46. The IEP also required 180 minutes per month ("MPM") of direct instruction from a mental health provider "to support social skills, self-regulation, and self-awareness." *Id*. Vision services would be provided indirectly for 90 MPM by a TVI to consult "on adaptive strategies, technology use, material/curriculum adaptations, and accommodations." *Id*.

59. Parents requested "meaningful consideration of [Student's] need for an educational intervener" for literacy access, instead of just a 1:1 aide for safety. *Exhibit R-1*, p. 94. To facilitate that conversation, they requested that the IEP Team allot "appropriate time" to review and consider the "*National Center on Deafblindness Intervener Services Discussion Guide*" ("Guide") in full. *Id*. at pp. 1, 96; *Exhibit 4*, pp. 185-206. An intervener is a related service that can support some deafblind individuals by providing access to information they cannot gather through their own senses. *Exhibit 4*, p. 186; *Interviews with Interventionist and Student's dedicated adult, who is a trained interventionist ("Paraprofessional")*.

60. To prepare for this conversation, several members of the IEP Team, including TVI, Interventionist, a former OT, and another teacher all reviewed and completed the Guide. *Interviews with Administrator and TVI*. Although they did not go step-by-step through the Guide during the meeting, the IEP Team had a "thoughtful discussion regarding the range of supports provided by [Student's] dedicated adult support," which included references to the Guide and "supported the identification and clarification of the various ways the dedicated adult contributes." *Id*.; *Exhibit A-1*, p. 48.

61. The IEP Team acknowledged that Student's adult support addressed his safety and medical needs but also "play[ed] a critical role in helping [Student] access and engage with his environment and peers, supporting his social interactions, and promoting his independence and learning." *Exhibit A-1*, p. 48.

62. Per the IEP, Student required dedicated adult support "throughout the school day and aftercare program to help [him] access and engage with his environment and peers." *Id*. at pp. 45-46. Adult support would ensure Student's access to activities and information as well as his safety. *Id*. This included promoting social interactions, facilitating independence and meeting his learning and safety needs. *Id*.

63. Student's least restrictive environment was a separate school, with no access to a general education environment. *Id*. at p. 48.

Special Factors

64. Per the IEP, Student required a communication plan, a learning media plan, and a health care plan. *Id*. at p. 34. He would receive specialized transportation. *Id*. For AT, he needed: (1) a school-issued laptop with accessibility features; (2) an electronic tablet with apps; (3) a desktop computer with a large touch screen monitor; (4) a portable electronic magnifier; and (5) a minimum of size 14 print font. *Id*.

65. He did not require a behavior intervention plan ("BIP"). *Id*. Student initially had a BIP when he enrolled at School. *Interview with Administrator*. As his language abilities improved, his behaviors decreased, and the IEP Team determined he no longer required a BIP. *Id*.

66. According to the Communication Plan, Student's primary language was ASL. *Exhibit B-1*, pp. 1-2. Parents indicated that the Communication Plan did not acknowledge how Student's combined sensory challenges impacted his access to ASL in social and instructional settings. *Exhibit R-1*, p. 94.

67. Student's desk was situated so that he could maximize his visual access to teacher instruction. *Interviews with Teacher and Literacy Teacher*. He sometimes struggled to follow classroom discussions, but Paraprofessional showed him where to look when needed. *Id*. He also had a magnifying camera to enlarges ASL if someone is too far away. *Id*. Other students in the class knew to wait until he pointed the magnifier or to come closer to his desk before speaking. *Id*.

68. According to the Learning Media Plan, Student's current and recommended primary literacy mode was "print enlargement or visual mode with optical enhancement." *Exhibit B-1*, p. 5. His secondary mode was regular print or visual mode. *Id*. Braille or tactual mode is listed as his co-primary learning and literacy mode. *Id*.

69. This co-primary learning mode was selected to ensure access to tactile or multisensory instruction, not braille. *Interview with TVI*. When completing the form, the IEP Team selects from a drop-down list that always pairs tactual and braille instruction. *Id*.

70. Parents indicated that the IEP Team did not discuss braille as Student's default learning mode or specifically determine that braille was not necessary for Student. *Interview with Parent*. Parents want Student to be pre-taught braille in case he needs to rely on it in the future. *Id*.

71. When Student first enrolled at School, an IEP Team considered whether he required braille and determined it was not necessary given his visual acuities. *Interview with TVI*. The information available to District does not indicate that Student's vision is expected to deteriorate to the extent that braille would be required. *Id*.

H. Parents' Request for an IEP Team Meeting

72. District sent Parents the finalized IEP on June 11, 2025. *Exhibit R-1*, pp. 230-324. However, Parents continued to disagree with the IEP in a letter sent to Assistant Director on June 18, 2025. *Id*. at pp. 325-30.

73. Specifically, Parents requested changes to create "an enforceable obligation to actually deliver a structured literacy intervention." *Id*. at p. 327. This included listing structured literacy intervention as "a distinct service in the Services grid," specifying an evidence-based intervention and increasing details like a schedule and location. *Id*. Parents also wanted to know the scope and sequence of instruction and for the IEP to include more than 90 MPW of literacy instruction in light of Student's "significant reading deficiency." *Id*. at pp. 327-328.

74. Parents continued to believe that the goals were not tied to Student's instructional level and that the IEP did not clearly explain how deafblindness affected Student's literacy access. *Id*.

75. Parents also disagreed with how the dedicated adult support was described, as it did not "articulate how that support [would] ensure [Student could] receive and process structured literacy instruction." *Id*. Specifically, they believed Student required an intervener "to ensure visual-manual access, incidental learning prompts, and management of vision fatigue." *Id*.

76. Parents thus requested another IEP Team meeting with specific participants and included proposed details for the structured literacy instruction. *Id*. at pp. 328-30.

77. Although District offered to convene an IEP Team meeting in late August 2025, Parents declined to meet until District sent a "revised draft IEP that include[d] an explicitly stated structured literacy intervention consistent with [their] multiple previous requests." *Id*. at pp. 388, 391. Assistant Director pointed out how the IEP already addressed many of Parents' concerns and sent Parents a PWN to that effect on August 25, 2025. *Id*. at pp. 387, 392-95.

I. Incidents at School

78. School implements a building-wide positive behavior intervention and support ("PBIS") program with both consequences and rewards. *Response*, p. 6; *Exhibit K*, p. 1. Student earned points for expected behaviors including some that are directly related to his needs. *Interview with Teacher*. The points could be redeemed in a School store for smaller, immediate rewards

or items that required saving points for longer. *Id*. Student was motivated to earn points for some School "swag." *Id*.

79. School occasionally sees a cluster of behaviors from Student, after which things are generally fine for several months. *Interview with Administrator*. The behaviors are generally tied to times when Student does not feel well. *Id*.

Safety Incidents

80. On October 1, Paraprofessional and Interventionist were cleaning up an activity when a classmate pulled Student's pants down. *Exhibit R-2*, pp. 1, 13, 14. Staff addressed the incident with Student, assigned consequences to the classmate, and notified Parents the next day. *Id*.

81. The IEP required Student to wear a helmet at recess for protection. *Exhibit A-1*, p. 41; *Exhibit R-2*, p. 15. He would remove the helmet when the class lined up to go inside. *Exhibit R-2*, p. 15. On October 2, after he had already removed his helmet at the end of recess, Student walked into a wall. *Id*. at pp. 13-15, 25. He immediately closed his eyes and walked to the nurse's office with his eyes closed. *Id*. While there, he laid down for two minutes and was not responsive to the nurse. *Id*. After that, he began moving like normal and returned to class. *Id*.

82. In response, on October 3, Parents emailed Administrator requesting an IEP Team meeting to "verify that 1:1 coverage and duties are being implemented as written across classroom and recess" and amend the IEP to note that Student was "vulnerable to bullying" and required related proactive supports. *Id*. at p. 20.

83. On Monday, October 6, Parent sent Administrator another email about an incident that occurred at the end of the day on October 3. *Id*. at p. 6. Specifically, when Parent arrived for pickup, he observed Student at a building door "pounding on the glass panel and visibly frantic." *Id*. After a staff member opened the door, Student ran out and chased a car that had picked Student up the day before. *Id*. Student eventually saw Parent and got into his car. *Id*. When staff came to the car, they told Student to "'calm down and breathe.'" *Id*.

84. After investigating, Administrator determined that Student had been upset about not getting to bring home a favorite book. *Id*. at p. 3. Several staff members, including Psychologist, were trying to help Student regulate when he ran down the hall. *Id*. Those same staff members caught up with Student and let him out of the building. *Id*. When they came to the car, they told him to use the regulation strategies he had been practicing with Psychologist. *Id*.

85. Administrator declined to convene an IEP Team because the situations were unrelated to Student's IEP, which already required dedicated adult support that was being implemented. *Id*. at p. 16. School staff also concluded that Student's behavior could be effectively managed with the supports in the IEP and the School-wide PBIS program. *Response*, p. 6; *Interviews with Teacher and Literacy Teacher*.

Behavior Incidents

86. On October 22, 2025, Student got frustrated during a session with Psychologist when she told him they would not be playing the game they had previously used as a coping tool. *Exhibit R-2*, at p. 26. Student then began breaking objects in Psychologist's office and attempted to injure her with tacks he removed from her walls. *Id*. Ultimately Psychologist and Administrator were able to redirect Student and help him regulate. *Id*. Psychologist planned to continue working with Student on accepting no and Paraprofessional would prompt him to use a "feelings book" to help him regulate. *Id*.

87. On December 1, Parent requested to meet with Administrator to discuss his "systemic concerns" and identify opportunities for School to "better align [Student's] supports with his current needs." *Id*. at pp. 30-31. He specifically wanted to meet with Administrator and not Student's IEP Team. *Id*. at p. 29. During that meeting on December 8, Parent recalls Administrator telling him that "working informally with classroom teachers" would be more effective than having another IEP meeting. *Complaint*, p. 87.

88. On December 4, during art class, Student poked a classmate with scissors and tried to cut her hair. *Exhibit R-2*, p. 36. Staff redirected him before he succeeded. *Id*. Student was then sent to the assistant principal's ("Assistant Principal") office, where he spent the rest of the day. *Id*. During that time, he completed class work and met with service providers. *Id*. at p. 33.

89. On March 2, 2026, Student threw his helmet at a classmate, hitting the other student. *Id*. at p. 87. Student took responsibility for the behavior and wrote an apology. *Id*.

90. Student has a cart for carrying his assistive technology and other materials between classrooms. *Id*. at p. 90; *Exhibit K*, pp. 3, 4; *Interview with Administrator*. On March 12, Student pushed the cart into Paraprofessional, who was bending down to pick something up. *Exhibit R-2*, p. 90. He was then "aggressive towards his [Teacher] who was trying to calm him down." *Id*. As a consequence, Student sat with Assistant Principal and talked through the incident and restorative practices, instead of attending his after-school club. *Id*. at p. 91.

91. On March 13, during his afterschool program, Student bit a staff member. *Id*. Most staff members were attending a training, and the new staff person did not remember to give Student a warning before taking something from him. *Id*.

J. Safety Plan

92. School develops safety plans when they have any concerns about keeping a student or their peers safe. *Interviews with Administrator and Literacy Teacher*. Safety plans may address a variety of challenges ranging from medical to behavioral but are geared towards ensuring safety and staff accountability rather than managing behavior. *Id*. School looks at the frequency, intensity and duration of behavior when considering whether it should be addressed in a student's IEP. *Interviews with Administrator and Assistant Director*.

93. In response to the December 4 incident, Administrator and School Psychologist created a safety plan ("Safety Plan") for Student "to ensure that he, as well as other students, are safe." *Exhibit R-2*, p. 56. The safety plan was not part of Student's IEP. *Id*. According to the Safety Plan, Student tended to act impulsively, and sometimes aggressively, towards peers, especially "towards specific students." *Exhibit K*, p. 18.

94. The Safety Plan listed several strategies to prevent aggressive behaviors. *Id*. First, Student had a 1:1 paraprofessional and should be supervised by another adult anytime Paraprofessional was not present. *Id*. Second, he should have a cubby and a seat away from the classmates he tended to target. *Id*.

95. The Safety Plan also said Student "should be encouraged to interact and make friends with other students" including "giving him support to find peers that he enjoys." *Id*. The Safety Plan noted Student had a related IEP goal to independently initiate or join peer activities. *Id*.

96. The Safety Plan also included two new strategies for supporting Student. *Id*. First, staff would use a check in/check out method, prompting Student to "check in with his feelings flashcard" to identify his feelings and use a coping strategy if necessary. *Id*. Student would check out the same way after class, at which point he generally had a scheduled break. *Id*.

97. Second, Student would have a visual aid ("Visual") to help him "understand the positive reinforcement and consequences for his behavior." *Id*. The Visual depicted an angry person inside a popped bubble followed by two crossed out images: (1) afterschool activities; and (2) an iPad and computer. *Id*. at pp. 18, 20. Words under the image of the computer specified that this applied to "free time." *Id*. at p. 20. A second row depicted a happy person inside an intact bubble. *Id*. This was followed by thumbs up paired with images of: (1) afterschool activities; (2) an iPad; and (3) a computer. *Id*. The Visual was intended to help Student understand the abstract concept of boundaries. *Interview with Teacher*.

98. The Safety Plan was not shared with Parents until after they filed this Complaint. *Exhibit R-2*; *Reply*, p. 37. Parents' indicated that, if his behaviors necessitated a safety plan, then the IEP Team should have reviewed and revised his IEP with their input. *Complaint*, pp. 69-92.

K. IEP Implementation

Accessibility to Teachers and Others

99. At School, case managers are responsible for ensuring that all staff are aware of their responsibilities under a student's IEP. *Interviews with Teacher and Administrator*. Every student at School has an IEP, and all teachers have access to them via School's data management system. *Interview with Administrator*.

100. At the start of the school year, all the teachers meet to review all IEP accommodations and any support plans. *Interview with Teacher*. They also share accommodations and other relevant information with any classroom paraprofessionals. *Interview with Literacy Teacher*.

101. Staff all had access to Student's IEP and, in discussing Student's needs and supports, demonstrated clear understanding of their responsibilities under the IEP. *Interviews with Teacher, Literacy Teacher, Interventionist, TVI, Paraprofessional, and Administrator*.

Accommodations

102. The IEP required: (1) a "visual schedule to provide a predictable daily routine and communicate schedule changes in advance when possible," and (2) "use of Word Prediction software" as needed. *Exhibit A-1*, p. 41.

103. Parents' concern is that implementation of the consequences in the Visual from the Safety Plan interfered with Student's access to a predictable schedule and his assistive technology, leading to inconsistent access to those accommodations. *Complaint*, pp. 69-92.

104. Student's classes had consistent schedules. *Exhibit N*, pp. 2-4. He also stayed after school daily for activities. *Exhibit K*, p. 18. Although the Visual indicated Student may miss afterschool activities as a consequence, this occurred only once. *Id*. at p. 20; *Exhibit R-2*, p. 91; *Interviews with Administrator and Teacher*. On March 12 he stayed after school but spent time discussing an incident with Assistant Principal instead of going to his club. *Exhibit R-2*, p. 91.

105. Student has a variety of technologies at his desk to help him access instruction. *Exhibit K*, p. 1; *Interviews with Teacher and Literacy Teacher*. This includes both an iPad and a desktop computer equipped with software like word prediction. *Interview with Teacher*. Student never lost access to needed technology during academics. *Interviews with Teacher, Literacy Teacher and Administrator*.

106. If students finish work early, they are sometimes afforded free time on their computers. *Interview with Teacher*. The Visual stated if Student did not respect boundaries, he could lose access to free time on his iPad or computer. *Exhibit K*, p. 20. He did not require word prediction during free time because this time did not involve writing. *Interview with Teacher*.

107. For these reasons, the CDE finds that District implemented these accommodations consistent with the IEP from March 12, 2026 to present.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District conducted a comprehensive reevaluation of Student in April 2025, because it used a variety of assessment tools and strategies to gather relevant information about Student's literacy and access needs, including information provided by Parents, as required by 34 C.F.R. § 300.304(b)(1). District complied with the IDEA.

A. Legal Requirements: Reevaluation Procedures and Additional Requirements

In conducting a reevaluation, school districts must "use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child, including information provided by the parent" that may assist in determining "the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum." 34 C.F.R. § 300.304(b)(1)(i)-(ii). A reevaluation must assess the student "in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities." *Id.* § 300.304(c)(4). "This is not an exhaustive list of areas that must be assessed. Decisions regarding the areas to be assessed are determined by the suspected needs of the child." *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46,643 (Aug. 14, 2006). A reevaluation must also be "sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified." 34 C.F.R. § 300.304(c)(6).

Additionally, school districts must review any existing evaluation data on the child, including: (1) evaluations and information provided by the parent of the child, (2) current assessments and classroom observations, and (3) observations by teachers and related service providers. *Id.* § 300.305(a)(1). Based on that review and input from the child's parents, school districts must then identify what additional data, if any, are needed to determine whether the child continues to have such a disability and the child's educational needs. *Id*. § 300.305(a)(2).

B. District Conducted a Comprehensive Evaluation

In this case, Parents were concerned that the "urgency" of Student's literacy needs were lost in the April 2025 Reevaluation. (FF #s 17, 20, 37.) Parents also stated the Reevaluation did not include an assessment to determine whether he required the support of an intervener. (FF #37.)

Parents requested a "literacy evaluation" for Student on January 30 and District reevaluated Student in April 2025 in the areas of general intelligence, communicative status, academic performance, social and emotional status, health, motor abilities and vision. (FF #s 20, 21.) The Reevaluation included current and historical cognitive testing, several assessments of Student's communicative status, social and emotional assessments, a review of Student's health history, and assessments of his motor abilities and vision. (FF #s, 23-36.) To assess Student's academic performance, the Reevaluation included formal assessments like the KTEA, MAP, DRA and OWLS as well as updates about Student's progress with the Bedrock and FOWTR curriculums. (FF #s 25-28.) District reevaluated him in all areas identified in the consent. (FF #s 21, 23-36.)

Although Parents requested a "literacy evaluation" the IDEA does not require a school district to limit an evaluation to a single area of concern. *See* 34 C.F.R. § 300.304(c)(4). Indeed, a school district must conduct a comprehensive evaluation to identify all of the child's needs. *Id.* District conducted a comprehensive Reevaluation by evaluating all areas related to Student's suspected disability, including of Student's literacy needs. (FF #s 23-36.) District used a variety of tools and strategies to assess Student's reading and writing abilities, including the KTEA, MAP, DRA and

OWLs. (FF #s 25-28.) These assessments showed that Student was performing at a first-grade level. (*Id*.) This is consistent with the communication assessments which found that Student was able to access academic information at a first-grade level. (FF # 24.) The assessments also identified specific literacy skills for Student to work on. (FF # 26.)

The Guide requested by Parents, which the IEP Team considered, is not an assessment to determine whether Student required an intervener but rather a tool to facilitate the IEP Team discussion about Student's needs. (FF # 59.) To identify Student's access needs, the Reevaluation noted Student's profound hearing loss and included a review of Student's visual acuity, as well as a variety of assessments of the impact vision had on his access to information in the classroom. (FF #s 31-36.) He was able to read writing on the whiteboard and on printed materials, although TVI noted he benefited from darker colors or larger print. (FF # 34.) Student had access to AT to help him access materials visually. (FF # 36.) In class, teachers noted he had frequent breaks and adult support to help with socializing and independent task completion. (FF # 31.) With that support, he was engaged in classwork and following classroom expectations. (*Id*.)

Although Parents did not complete the social emotional rating scales, the Reevaluation included information provided by Parents about Student's health, as well as the results of a previous private evaluation they obtained. (FF #s 23, 30, 32.)

For these reasons, the CDE finds and concludes that District used a variety of assessment tools and strategies, including information provided by Parents, to gather information about Student's literacy and access needs as part of the April 2025 Reevaluation, consistent with 34 C.F.R. § 300.304(b)(1).

Conclusion to Allegation No. 2: District developed an IEP in May 2025 that satisfied requirements regarding special education and related services, measurable annual goals, consideration of Student's academic, developmental, functional, language, and communication needs, and consideration of Parents' concerns, as required by 34 C.F.R. §§ 300.320, 300.324(a), and ECEA Rules 2.10 and 2.31. District complied with the IDEA and ECEA.

The IDEA requires a school to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). An analysis of the adequacy of an IEP begins with the two-prong standard established by the United States Supreme Court in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The first prong determines whether the IEP development process complied with the IDEA's procedures; the second prong considers whether the IEP was reasonably calculated to enable the child to receive an educational benefit. *Rowley*, 458 U.S. at 207. If the question under each prong can be answered affirmatively, then the IEP is appropriate under the law. *Id.* Taken together, these two prongs assess whether an IEP is procedurally and substantively sound.

A. Development of the IEP

An IEP is "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 391 (quoting *Rowley*, 458 U.S. at 181). In developing a child's IEP, the IEP Team must consider the "concerns of the parents for enhancing the education of their child." 34 C.F.R. § 300.324(a)(1)(ii). The IDEA's procedural requirements for developing a child's IEP are designed to provide a collaborative process that "places special emphasis on parental involvement." *Sytsema v. Acad. Sch. Dist. No. 20*, 538 F.3d 1306, 1312 (10th Cir. 2008). An IEP meeting "serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to make joint informed decisions regarding the services that are necessary to meet the unique needs of the child." *Letter to Richards*, 55 IDELR 107 (OSEP 2010). To that end, the IDEA requires that parental participation be meaningful, to include addressing information about the child provided to, or by, the parents in reviewing and, as appropriate, revising a student's IEP. 34 C.F.R. §§ 300.321(a), 300.322, 300.324(b)(1).

Meaningful parent participation occurs where the IEP Team listens to parental concerns with an open mind, exemplified by answering questions, incorporating some requests into the IEP, and discussing privately obtained evaluations, preferred methodologies, and placement options, based on the individual needs of the student. *O'Toole v. Olathe Dist. Schs. Unified Sch. Dist. No. 233*, 144 F.3d 692, 703 (10th Cir. 1998). Meaningful participation does not require that a district simply agree to whatever a parent has requested. *Jefferson Cnty. Sch. Dist. RE-1*, 118 LRP 28108 (SEA CO 2018). However, parental participation must be more than "mere form." *R.L. v. Miami-Dade Cnty. Sch. Bd.*, 757 F.3d 1173, 1188 (11th Cir. 2014). "It is not enough that the parents are present and given an opportunity to speak at an IEP meeting." *Id.* Evidence that a district "was receptive and responsive at all stages" to the parent's position, even if it was ultimately rejected, is illustrative of parental participation. *Id.*

To ensure the IEP is individualized to the child's unique needs, IEP Teams must also consider, in part, the "academic, developmental, and functional needs of the child." 34 C.F.R. § 300.324(a)(1)(iv).

For a student with a vision impairment, the IEP must consider their literacy mode, or system "of achieving literacy." ECEA Rules 2.31, 4.03. Potentially literacy modes include:

- Auditory: meaning the student will depend on auditory senses, like a reader or electronic recording, to achieve literacy;

- Braille: meaning the student will learn to read and write using "raised points, commonly known as Standard English Braille";

- Print enlargement: meaning the student will achieve literacy via optical aids which can enhance printed or electronic materials in a larger print; or

- Regular print: meaning the student will achieve literacy primarily using "regular-sized printed material."

Id. at 2.31.

i. Student's Literacy Needs

Parents indicated that the IEP Team did not consider the impact of Student's disabilities on his literacy skills in developing the IEP. (FF #s 41, 52, 59.) Relatedly, Parents stated that District did not adequately consider their feedback. (FF #s 50-52, 59.)

Here, Parents shared feedback with District before, during, and after the IEP Team meeting in May 2025. (FF # 38, 41, 46, 50-53, 57, 59-62, 72-77.) The IEP was developed based on the comprehensive Reevaluation which included several literacy assessments identifying Student's academic needs. (FF #s 25-28, 38.) These assessments are described in the IEP's present levels and the IEP Team agreed that Student's language delays impacted his literacy skills. (FF # 39, 47.) In response to Parents' concerns about Student's need for a clearly defined literacy plan, District added additional details about the services he was receiving and the special education minutes that would be dedicated to literacy instruction. (FF #s 41-45, 57.) In consideration of TVI's assessments, the IEP Team determined that Student's primary literacy mode was print enlargement, indicating that Student required enlarged visuals to read. (FF # 68.) Thus, the CDE finds and concludes that District considered Student's academic needs and Parents' concerns for Student's literacy needs, as required by 34 C.F.R. §300.324(a)(1)(ii), (iv) and ECEA Rule 2.31.

ii. Student's Access Needs

Parents also indicated the IEP Team did not consider the impact of Student's vision impairment on his access to instruction or their related concerns. (FF #s 41, 59-62, 75.) Specifically, they are concerned that the IEP Team did not complete the Guide as a team to determine his need for an educational intervener. (FF # 59.) While the IEP Team did not complete the Guide together, several members of the IEP Team reviewed the Guide in preparation for the meeting. (FF # 60.) Based on that review, the IEP Team discussed the range of supports provided by his dedicated adult support. (*Id*.) This led the IEP Team to add additional information to the IEP about how Student would be supported by an adult, including supporting social interactions, engagement with the environment and promoting independence. (FF #s 61, 62.) Thus, the CDE finds and concludes that District considered Student's functional needs related to accessing his education and Parents' related concerns, as required by 34 C.F.R. § 300.324(a)(1)(ii), (iv).

iii. Development of Student's IEP

Overall, the CDE finds and concludes that District complied with the IDEA's procedural requirements under the first prong of the *Rowley* standard. *Rowley*, 458 U.S. at 207. As such, the CDE turns next to consider the second prong, which assesses the IEP's substantive adequacy. *Id.*

B. Substantive Adequacy of the IEP: Special Education and Related Services

i. Legal Requirements

An IEP must be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F.*, 580 U.S. at 399. To that end, an IEP must identify the special education and related services and supplementary aids and services that will be provided to allow the child to: (1) attain the annual goals, (2) be involved and make progress in the general education curriculum, and (3) participate in nonacademic activities. 34 C.F.R. § 300.320(a)(4). An IEP must "include information about the services that will be provided to the child, so that the level of the agency's commitment of resources will be clear to parents and other IEP Team members." *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46667 (August 14, 2006).

This statement, commonly known as the SDS, must be sufficiently detailed for parents to understand what specific services and supports the school district is offering to provide. *Tamalpais Union Sch. Dist. v. D.W.*, 70 IDELR 230 (N.D. Cal. 2017) (noting that "Parents can't make an informed decision on whether to accept a proposed IEP if the document includes only a vague description of the student's services"); *see also Douglas Cnty. Sch. Dist.*, 118 LRP 35788 (SEA CO 2018). The SDS must clearly specify the amount and type of services that will be provided to a student. *Adams 12 Five Star Schs.*, 75 IDELR 86 (SEA CO 2019). This includes describing the setting in which a particular service will be provided. *See, e.g., S.H. v. Mount Diablo Unified Sch. Dist*., 70 IDELR 98 (N.D. Cal. 2017) (finding that the district acted inconsistent the IDEA when it did not indicate whether the 40 minutes of speech and language services would be delivered to the student individually or in a group setting).

Related services mean supportive services, including speech and language pathology, psychological services and physical and occupational therapy, that "are required to assist a child with a disability to benefit from special education." 34 C.F.R. § 300.34. Related services must be included in a student's IEP when they are necessary for the student to benefit from special education. *Colo. Springs Sch. Dist. 11*, 124 LRP 34343, (SEA CO 2023) (finding that student did not require direct physical or occupational therapy to access his school environment or his self-care needs); *See also In re: Student with a Disability,* 65 IDELR 160 (SEA ID 2015) (holding that an IEP need not include a one-to-one aide where other options are available for facilitating communication between school and home).

Most often, special education and related services are described in an IEP's SDS. However, the IDEA does not require that they be listed within that section. 34 C.F.R. § 300.320(a)(4). Indeed, IEP Teams are not required to include information "under one component of a child's IEP that is already contained under another component of the child's IEP." *Id.* at § 300.320(d)(2). IEPs must be read as a whole (i.e., considered in their entirety) when determining a district's offer of FAPE. *See, e.g., Weld RE-5J*, 125 LRP 18446 (SEA CO 2025) (finding that a student's placement was a separate school even where the SDS described interim services and did not include a description

of the services that would be provided in a separate school setting); *see also Los Angeles Unified Sch. Dist.*, 60 IDELR 29 (SEA CA 2012) (holding that a student's IEP required the provision of one-to-one assistance where it was mentioned at least once in the document).

Further, special education and related services must be based on peer-reviewed research only to the extent practicable. 34 C.F.R. § 300.320(a)(4). An IEP is not required to identify a specific curriculum or methodology for instruction. *Id.* "[P]arents, no matter how well-motivated, do not have a right under the [IDEA] to compel a school district to provide a specific program or employ a specific methodology." *Lachman v. Ill. State Bd. of Ed.,* 852 F.2d 290, 297 (7th Cir. 1988). If the IEP is procedurally compliant, the specialized knowledge and expertise of the professional educators can reasonably be relied on in determining that the resulting IEP is substantively appropriate. *Sytsema*, 538 F.3d at 1318 (relying on *Rowley*, 458 U.S. 176).

ii. Student's Literacy Services

In this case, Parents had concerns about Student's rate of progress in literacy and wanted increased services and a clearly defined plan for his literacy instruction. (FF #s 41, 52, 53, 73, 74.) In response, the IEP Team amended the IEP to describe the literacy curriculum used at School and specify the amount of literacy instruction Student would receive. (FF #s 41-45, 50, 57.) Read as a whole, the IEP made clear that Student would receive 375 MPW of direct instruction in literacy from a TOD, as well as an additional 90 MPW of support from a literacy interventionist. (FF # 57.) As Student attended a separate school, all these services would be specialized instruction provided outside of the general education curriculum, not core instruction. (FF #s 11, 63.) There was no obligation to separate out those services in the grid where they are adequately described elsewhere. 34 C.F.R. § 300.320(d)(2).

Also, though IEPs must include sufficient detail for parents to be able to determine what supports the district is offering, this requirement must be balanced against the educator's right to determine an appropriate curriculum. *Tamalpais*, 70 IDELR 230; *Lachman,* 852 F.2d 290, 297. Thus, while the IEP must specify the amount of service time and indicate whether services will be provided inside or outside the general education setting and in a group or individual (1:1) setting, it is not required to identify the specific curriculum or include details such as the schedule or sequence of instruction.

The CDE empathizes with Parents' position regarding Student's literacy progress. However, Student entered School four years ago with very limited language compared to the language proficiency attained by most hearing peers at that age. (FF #s 14-16.) While common for DHH students, this language deprivation can have lasting impacts on literacy development. (FF #s 12-15.) Since enrolling at School, Student has worked on developing both his social and academic language skills. (FF #s 15, 16, 18.) Teachers must make sure students at School have the necessary ASL vocabulary before they can learn the English words. (FF # 7.) At the time of the Reevaluation, Student's academic ASL skills were at the level of a first grader, just like his literacy skills. (FF #s 24, 25.) Student's literacy instruction amounted to about 90 minutes per day. (FF # 57.) Throughout the rest of his day, Student was receiving instruction in ASL working on his ASL

language skills alongside academics. (FF # 56.) This instruction will also contribute to his literacy development. (FF #s 7, 13, 18.)

For all these reasons, the CDE finds and concludes that the IEP included a statement of the literacy services to enable Student to advance towards attaining his annual goals, consistent with 34 C.F.R. § 300.320.

iii. Student's Literacy Mode

Parents' concern is that the IEP Team did not discuss braille as Student's learning mode, in case he may need it in the future. (FF # 70.)

Student's Learning Media Plan determined that his primary learning mode was print enlargement, with a secondary mode of regular print. (FF # 68.) His co-primary mode was tactile or multisensory instruction. (FF #s 68-69.) When Student first enrolled at School, an IEP Team determined that he did not require braille instruction given his visual abilities. (FF # 71.) District has no reason to believe Student's vision will deteriorate such that he will require braille in the future. (*Id*.) Further, nothing in the Record supports such a concern. However, while Student could read 8- or 10-point font, he benefitted from larger print and reduced visual clutter, which the IEP required. (FF #s 34, 55, 68.) For all these reasons, the CDE finds and concludes that IEP identified Student's literacy mode, consistent with ECEA Rule 2.31.

iv. Student's Adult Support

Parents indicated that the IEP Team did not consider whether Student required intervener services rather than just adult support for safety. (FF #s 59-61, 75.)

Parents asked the IEP Team to review the Guide together to determine whether Student required an intervener. (FF # 59.) Instead, members of the IEP Team reviewed the Guide in advance. (FF # 60.) Based on that, the IEP Team had a discussion about the support Student required from his dedicated adult. (*Id*.) As a result, the IEP Team acknowledged several ways the adult supported Student and added detail to the IEP. (FF # 61.) Per the IEP, Student required adult support to access school and engage with his environment and peers. (FF # 62.) In addition to dealing with health and safety needs, the support person would also be responsible for ensuring he could access activities and information and promoting social interactions and independence. (*Id*.) The fact that a school nurse would provide training on the medical interventions did not negate the multiple other responsibilities described in the IEP. (*Id*.) While the IEP Team may not have determined that Student required adult support with intervener training, it did determine that Student required support for more than safety. (*Id*.) By describing the wide range of support to be provided by a dedicated adult, the CDE finds and concludes that the IEP included the related services required to enable Student to advance towards attaining his annual goals, as required by 34 C.F.R. § 300.320.

C. Substantive Adequacy of the IEP: Measurable Annual Goals

i. Legal Requirements

An IEP must include measurable goals designed to "[m]eet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum" and any other educational needs that result from the child's disability. 34 C.F.R. § 300.320(a)(2). To allow for the evaluation of a student's progress, IEP goals must be clear and objectively measurable. *Kuszewski v. Chippewa Valley Schs.*, 34 IDELR 59 (E.D. Mich. 2001), *aff'd*, 38 IDELR 63 (6th Cir. 2003, *unpublished*). Annual goals should be clear enough that a stranger, or person unfamiliar with the IEP, would be able to implement the goal, monitor student's progress on the goal, and determine whether that progress was satisfactory. *Mason City Cmty. Sch. Dist.*, 46 IDELR 148 (SEA IA 2006).

ii. Student's Annual Goals

In this case, Parent's concern is that Student's literacy goals were not realistic or sufficient for the scope of his needs. (FF #s 52, 53, 74.) Parents suggested goals that specified the accommodations and services that would be provided to Student. (*Id*.) As the accommodations are separately listed in the IEP, there is no obligation for goals to list specific accommodations. 34 C.F.R. § 300.320(d)(2); *see, e.g., Weld RE-5J*, 125 LRP 18446 (SEA CO 2025). The IDEA does not require districts to identify a specific curriculum in a student's annual goals, just as it does not require a specific curriculum to be identified in the SDS. *Lachman,* 852 F.2d 290, 297.

Student had deficits in letter-word recognition, reading comprehension, spelling, writing, and vocabulary acquisition. (FF #s 25-28.) The IEP included a word identification/vocabulary development goal for Student to accurately identify words from to Bedrock lists. (FF # 54.) It also included a comprehension goal to increase his DRA level. (*Id*.) Finally, it included a writing goal for Student to write complete, grammatically correct sentences. (*Id*.) The three goals were clear and included baselines, units of measurement, and explicit targets. (*Id*.) All three were adjusted to include additional detail and objectives in response to Parents' feedback. (FF # 53.) Ambitious goals, like increasing Student's reading level from 10 to 24, can still enable him to make appropriate progress, even if he does not ultimately meet the goal.

For these reasons—including the annual goals in reading skills, reading comprehension and written expression—the CDE finds and concludes that the IEP included measurable annual goals in literacy, as required by 34 C.F.R. § 300.320(a)(2)-(3).

D. Substantive Adequacy of the IEP: Language and Communication Needs

i. Legal Requirements

An IEP must consider the communication needs of the child. 34 C.F.R. § 300.324(a)(2)(iv). For DHH students, the IEP must specifically "consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's

language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode." *Id*.

In Colorado, the IEP for every DHH student must contain a communication plan. ECEA Rule 4.03(6)(a). The communication plan must identify the student's primary communication mode. ECEA Rule 4.03(6)(a)(i). The IEP Team must also consider the availability of DHH adult role models and a DHH "peer group of the child's communication mode or language." *Id*. at 4.03(6)(a)(iii).

ii. Student's Communication Plan

In this case, Parents' concern is that, in developing Student's Communication Plan, District did not adequately address the impact of Student's multisensory loss. (FF # 66.) Student's primary language is ASL. (*Id*.) At School, Student received direct instruction in ASL for all subjects. (FF #s 6, 56.) The IEP also included supports and services to address the impact of Student's vision impairment. (FF #s 55, 58, 62, 64, 68, 69.) Student's adult support ensured he knew where to look during classroom discussion and facilitated social interactions. (FF #s 62, 67.) Student also had a magnifying device to help him see signers who were farther away. (FF # 55, 67.) With these supports, Student was able to engage in classroom instruction in ASL. (FF #s 40, 67.) Thus, the CDE finds and concludes that the IEP considered the language and communication needs of Student, consistent with the requirements of 34 C.F.R. § 300.324(a)(2)(iv) and ECEA Rule 2.10.

Conclusion to Allegation No. 3: District was not obligated to review and revise the IEP in October 2025 to address Parents' concerns with Student's safety under 34 C.F.R. § 300.324(b). However, District did not review and, as appropriate, revise the IEP in December 2025 to consider the use of positive behavioral interventions and supports to address Student's behavior, as required by 34 C.F.R. § 300.324(b). This noncompliance resulted in a denial of FAPE.

A. Legal Obligation to Review and Revise IEPs

The IDEA requires a school to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F.*, 580 U.S. at 399. The IDEA does not promise a particular educational or functional outcome for a student with a disability, but it does provide a process for reviewing an IEP to assess achievement and revising the program and services, as appropriate, to address a lack of expected progress or changed needs. *Id.* To that end, school districts have an affirmative duty to review and revise a student's IEP at least annually. 34 C.F.R. § 300.324(b). However, the IDEA's procedures contemplate that a student's IEP may need to be reviewed and revised more frequently to address changed needs or a lack of expected progress. *See id.* §§ 300.324(a)(4)-(6), (b); *Endrew F.*, 580 U.S. at 391.

Specifically, the IDEA requires school districts to be responsive to a child's needs through the course of the school year, which may mean the IEP Team has to convene outside of the annual review if circumstances warrant it, such as if a student is not making progress on annual IEP goals or has changed needs. *Questions and Answers on Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 71

IDELR 68 (EDU 2017). The parents of a child with a disability "have the right to request an IEP meeting at any time," although school districts "are responsible for determining when it is necessary to conduct an IEP Team meeting." *Id.* The IDEA does not require districts to schedule an IEP meeting upon parental request, and Colorado law does not add such a requirement. *Adams Cnty. Sch. Dist. 50*, 109 LRP 23970 (SEA CO 2008) (noting "that while the IDEA does not require school districts to convene an IEP meeting pursuant to parental request, state law may include it as a requirement; however, Colorado has not").

B. Concerns of Parent

In this case, Parents indicated that District did not convene an IEP Team to review the IEP after the incidents at the start of October 2025. (FF #s 80-85.) Specifically, over three days, Student's pants were pulled down by a peer, he walked into a wall, and he ran out of the building and chased a car. (FF #s *Id*.) Parents requested an IEP Team meeting to ensure his dedicated adult support was being implemented and to add proactive supports to prevent bullying. (FF # 82.) District declined to convene an IEP Team meeting because the IEP already required dedicated adult support and that support was being implemented. (FF #s 62, 85.) District concluded no changes to the IEP were necessary because there was no indication Student's needs had changed or could not be addressed by the existing supports in the IEP. (FF # 85.)

The CDE understands Parents' concern for Student's safety. However, the IEP includes several supports and services to ensure Student's safety. (FF #s 55, 62, 85.) There is nothing in the Record to indicate that these three distinct and unrelated incidents impacted his ability to receive a FAPE. (FF #s 80-85.) Indeed, no similar incidents occurred throughout the rest of the year. (FF #s 86-91.) For these reasons, the CDE finds and concludes that District was not obligated to review and revise the IEP in October 2025 to address Student's safety under 34 C.F.R. § 300.324(b).

C. Positive Behavioral Interventions and Supports

Parents also indicated that District developed a safety plan in response to Student's behavior but did not review or revise the IEP to address behavior. (FF # 98.)

The IEP did not include a BIP. (FF # 65.) However, it did include a variety of accommodations to address Student's social and emotional needs, such as sensory breaks, structure, and direct teaching of social skills. (FF # 55.) It also included three social emotional goals to support the development of social and self-regulation skills. (FF # 54.) To enable Student to make progress on those goals, the IEP included 180 MPM of direct support from a mental health provider and consistent adult support for academics and social interactions. (FF #s 58, 62.)

Despite those supports, Student had five behavioral incidents over the course of the 2025-2026 school year. (FF #s 86-91.) As a result of one incident, Student missed class for the rest of the day, and after another he missed an after-school activity. (FF # 88, 90.) Student otherwise participated in restorative conversations and remained in class. (FF #s 86, 89, 91.) The CDE finds that the

frequency and intensity of these behaviors would not, on their own, necessarily indicate a need to review and, as appropriate, revise Student's IEP to address behavior.

However, in December 2025, in direct response to Student's behavior, District developed a Safety Plan. (FF # 93.) In addition to plans to keep classmates safe, like sitting Student away from common targets, the Safety Plan also included two new individualized supports for Student: (1) a check in/check out system to identify his feelings; and (2) a Visual to support understanding of boundaries. (FF #s 94-97.) These new supports were related to the needs and goals identified in the IEP but different than any support in the IEP. (FF #s 48, 49, 54, 61, 62.) Thus, the CDE finds that by adding these new supports through the Safety Plan—outside of the IEP process—District acknowledged a need to review and, as appropriate, revise the IEP as it no longer met his behavior needs. Moreover, despite Parents contacting School with concerns about Student's behavior, they were not included in any conversations about the Safety Plan and did not even receive it until after filing this Complaint. (FF #s 82, 83, 87, 98.) For these reasons, the CDE finds and concludes that District did not review and, as appropriate, revise Student's IEP in December 2025 to address his behavior, consistent with the requirements of 34 C.F.R. § 300.324(b).

D. Denial of FAPE

The United States Supreme Court has stressed the importance of complying with the IDEA's procedural requirements. *Rowley*, 458 U.S. at 205-06. However, procedural noncompliance is only actionable to the extent it impedes the child's right to a FAPE, significantly impedes the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE or causes a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Sytsema*, 538 F.3d 1306.

Here, the CDE finds and concludes that this noncompliance significantly impeded Parents' opportunity to participate in the decision-making process. Specifically, rather than convening Student's IEP Team, District attempted to address behavior impeding Student's learning or that of others through supports in the Safety Plan outside of the special education process and without including Parents. (FF # 98.) Accordingly, the CDE finds and concludes that this resulted in a denial of FAPE.

Conclusion to Allegation No. 4: District ensured that Staff had access to and an understanding of their responsibilities for implementing the IEP from March through May 2026, as required by 34 C.F.R. § 300.323(d). District implemented the accommodations in the IEP from March through May 2026 as required by 34 C.F.R. § 300.323(c). District complied with the law.

A. IEP Implementation: Legal Requirements

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17; ECEA Rule 2.21. The IEP is "the centerpiece of the statute's education delivery system for disabled children . . . [and] the means by which special education and related services are 'tailored to the unique

needs' of a particular child." *Endrew F.,* 580 U.S. at 399 (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Rowley*, 458 U.S. at 181). 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, including accommodations, are made available to the child in accordance with the IEP. 34 C.F.R. §§ 300.323(d), 300.323(c)(2).

B. Student's IEP: Accessibility to Teachers and Others

A school district must ensure that each regular education teacher, special education teacher, related services provider, and any other service provider responsible for implementing an IEP is informed of "his or her specific responsibilities related to implementing the child's IEP," as well as the "specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP." 34 C.F.R. § 300.323(d).

In this case, the teachers at School are all special educators. (FF # 11.) All students at School have IEPs, and teachers have access to their IEPs via an online system. (FF # 99.) Teachers also meet at the start of the year to review the IEPs and share them with classroom paraprofessionals. (FF # 100.) All of Student's teachers and related services providers had access to the IEP and demonstrated clear understanding of Student's needs and their responsibilities under the IEP during this investigation. (FF # 101.) Thus, the CDE finds and concludes that District ensured all teachers and other providers were aware of their responsibilities under the IEP, consistent with 34 C.F.R. § 300.323(d).

C. Student's IEP: Implementation of Accommodations

In implementing an IEP, a district must provide special education and related services "in conformity with" the IEP. 34 C.F.R. §§ 300.17, 300.323(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 F. App'x 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. Dist. 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 2018). 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 F. App'x 202, 205 (2d Cir. 2010). Material failures include shortfalls in implementing "substantial," "significant," or "necessary" IEP provisions. *Id.* at 818. The materiality standard has qualitative and quantitative components: the CDE should "determine *how much* [of a service] was withheld and *how important* the withheld services were in view of the IEP as a whole." *L.J. v. N.J.J. v. Sch. Bd. of Broward Cnty.*, 927 F.3d 1203, 1214 (11th Cir. 2019). The materiality standard "does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided." *Van Duyn*, 502 F.3d 811 at 822.

Therefore, to assess implementation concerns, the CDE engages in a two-pronged inquiry: (1) was there a shortfall in the provision of services required by the IEP, and (2), if so, did the shortfall amount to a material failure to implement the IEP and thus a denial of FAPE?

1. *Prong 1: Was there a Shortfall in Services?*

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

Here, the IEP required: (1) a "visual schedule to provide a predictable daily routine and communicate schedule changes in advance when possible," and (2) "use of Word Prediction software" as needed. (FF # 102.) As an initial matter, the IEP required advanced warning of schedule changes "when possible." (FF # 102.) This language acknowledged that advanced warnings would not always be possible. For instance, districts cannot predict when students will engage in behavior necessitating a consequence. Subject to enumerated limitations, Districts may still impose disciplinary removals on students with disabilities. 34 C.F.R. § 300.530(b)(1).

The Visual in Student's Safety Plan, not part of the IEP, specified that if Student did not respect boundaries, he would either be unable to participate in afterschool activities or miss out on free time on his devices. (FF # 97.) Parents expressed concern that implementation of the Visual conflicted with the IEP and led to inconsistent implementation of these two specific accommodations. (FF # 103.) For example, while the IEP required a visual schedule with a predictable daily routine, the Visual in the Safety Plan created a potential change to the schedule when Student did not respect boundaries. (FF #s 97, 102.) This conflict could also arise if Student lost access to his devices at times when he needed them to access word prediction software. (*Id*.)

Regarding the first accommodation above in relation to the Visual, Student was not permitted to attend his afterschool activity on March 12 after pushing his cart into Paraprofessional. (FF #s 90,

104.) Instead, Student spent time addressing the incident with Assistant Principal. (*Id*.) This only happened once. (FF # 104.) Given the permissible nature of the "when possible" language in the accommodation, the CDE finds that deviating from Student's schedule once to impose a consequence was consistent with the IEP. (FF #s 102, 104.)

Regarding the second accommodation above in relation to the Visual, Student had access to two devices with word prediction for all academic assignments and never lost access. (FF # 105.) The Visual would have only impacted his access to technology during free time, a period when he did not require word prediction. (FF #s 97, 106.)

For these reasons, the CDE finds and concludes that there was no shortfall in the implementation of these accommodations required by the IEP.

2. *Prong 2: Were the Shortfalls Material?*

Because there were no shortfalls in the provision of accommodations required by the IEP, the CDE does not need to address the second question of whether any shortfall was material. For this reason, the CDE finds and concludes that District complied with its implementation obligations under 34 C.F.R. § 300.323(c)(2).

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

Pursuant to its general supervisory authorities, the CDE must also consider and ensure the appropriate future provision of services for all IDEA-eligible students in the 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 State Enforcement Agency'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. 46601 (Aug. 14, 2006).

In this case, School has appropriate practices in place for addressing behavior via IEPs consistent with 34 C.F.R. § 300.324. (FF # 92.) This noncompliance, where District proactively attempted to address Student's behavior but did not do so through the special education process, is limited to Student and the specific circumstances of this investigation. (FF #s 72-77, 86-91.) For these reasons, the CDE finds and concludes that this noncompliance was not systemic in nature.

REMEDIES

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

1. Reviewing and, as appropriate, revising Student's IEP in December 2025, as required by 34 C.F.R. § 300.324.

To demonstrate compliance, District is ORDERED to submit a corrective action plan ("CAP") by **August 31, 2026** that adequately addresses how the cited noncompliance will be corrected through the completion of the following remedies:

1. **Final Decision Review**

    a. Administrator and Assistant Director must read this Decision in its entirety, as well as review the requirements of 34 C.F.R. § 300.324, by **Tuesday, September 8, 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 by **Thursday, September 10, 2026**.

2. **IEP Meeting**

    a. District must convene Student's IEP Team, at a mutually agreeable date and time, by **September 15, 2026**. In consideration of the concerns identified in this Decision, Student's IEP Team must review, and as appropriate, revise Student's IEP consistent with 34 C.F.R. §§ 300.320 and 300.324.

    b. If Parents refuse to participate in the IEP meeting, District may convene a meeting without Parents, provided District diligently attempts to secure Parents' participation at a mutually agreeable time and place and documents such efforts. A determination that District diligently attempted to secure Parents' participation rests solely with the CDE.

    c. By **Friday, September 25, 2026**, District must provide notice of the IEP meeting, proof the meeting was scheduled at a mutually agreeable date and time, proof of attendance of IEP Team members (such as a signature page), and a finalized IEP to the CDE. The IEP submitted for the CDE's review must address Student's needs as discussed in this Decision.

    d. If the IEP Team has already addressed the concerns in this decision at an IEP Team meeting during the pendency of this investigation but prior to the issuance of this decision, the District may provide the finalized IEP or IEP amendment, any related PWNs, and meeting notes in lieu of the documents requested in Remedy 2(a)-(c). A determination that the submitted IEP satisfies Remedy 2 rests solely with the CDE.

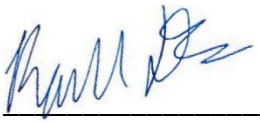
NOTE: CDE Special Education Monitoring and Technical Assistance Consultant will contact District with specific instructions for securely submitting the documentation detailed above. The CDE will approve or request revisions that support compliance with the CAP. After approval of the CAP, the CDE will arrange to conduct verification activities to confirm District's 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. ECEA Rule 7.06(3); *CDE's State Complaint Procedures*, Section E, ¶ 2. If a party disagrees with this Decision, that party may file a Due Process Complaint if the law permits a due process hearing on the issue in dispute. ECEA Rule 7.06(3); *CDE's State Complaint Procedures*, Section E, ¶ 2; 34 C.F.R. § 300.507(a); 71 Fed. Reg. 46,607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer.

Dated this 31st day of July, 2026.



Rachel Dore
Senior State Complaints Officer

APPENDIX

Complaint, pages 1-222

- Exhibit 1: IEP documents
- Exhibit 2: Correspondence
- Exhibit 3: Correspondence
- Exhibit 4: Correspondence
- Exhibit 5: Correspondence
- Exhibit 6: Bedrock
- Exhibit 7: Correspondence
- Exhibit 8: Guidance Documents
- Exhibit 9: Incident Reports
- Exhibit 10: Contract

Response, pages 1-11

- Exhibit A: IEPs
- Exhibit B: IEP Plans
- Exhibit C: Meeting Notices
- Exhibit D: PWN
- Exhibit E: Signature Page
- Exhibit F: None
- Exhibit G: Progress Reports
- Exhibit H: Evaluation
- Exhibit I: None
- Exhibit J: None
- Exhibit K: Behavior Supports
- Exhibit L: None
- Exhibit M: Eligibility Determination
- Exhibit N: None
- Exhibit O: Student Detail
- Exhibit P: Calendars
- Exhibit Q: Guidance
- Exhibit R: Correspondence
- Exhibit S: Consent

Reply, pages 1-174

- Exhibit 11: Guidance
- Exhibit 12: Miscellaneous

CDE Exhibits

- CDE Exhibit 1: Research
- CDE Exhibit 2: Research
- CDE Exhibit 3: Website

Virtual Interviews

- Interventionist: May 6, 2026
- Teacher: May 6, 2026
- Literacy Teacher: May 6, 2026
- Assistant Director: May 6, 2026
- Administrator: May 7 and 26, 2026
- TVI: May 21, 2026
- Paraprofessional: May 26, 2026
- Parent: May 27, 2026