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

State Complaint SC2026-591
Jeffco Public Schools

DECISION

INTRODUCTION

On May 19, 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 two allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

The CDE extended the 60-day investigation timeline because the parties agreed to participate in mediation, consistent with 34 C.F.R. § 300.152(b)(1)(ii). The mediation resulted in impasse, and the CDE resumed the investigation on July 2, 2026.

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

RELEVANT TIME PERIOD

The CDE has the authority to investigate alleged noncompliance that occurred not more than one year prior to the date the Complaint was properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring on or after May 19, 2025. Information prior to May 19, 2025 may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

The Complaint raises the following allegations subject to the CDE's jurisdiction under 34 C.F.R. § 300.153(b)[2] of the IDEA:

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

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

1. District did not identify and evaluate Student—from September 2025 through May 2026—when it was on notice that Student may have a disability and need special education and related services, as required by 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3).

2. District did not develop an IEP in May 2026 that considered Student's need for extended school year services, as required by 34 C.F.R. §§ 300.106, 300.320, 300.324.

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 attended seventh grade at a middle school ("School") in District during the 2025-2026 school year. *Exhibit A*, p. 1. Student and her family reside within the boundaries of District. *Id*.

2. Student is eligible for special education as a child with an autism spectrum disorder ("ASD"). *Id*. Student has difficulties with executive function that impact her ability to initiate and complete academic tasks. *Id*. at p. 8. She also has difficulties with pragmatic language that impact her communications at School. *Id*.

3. Student is intelligent, with a particular strength for visual-spatial skills. *Interviews with District's Gifted and Talented ("GT") resource teacher ("GT Teacher") and Student's special education teacher and case manager ("Case Manager")*. She is also a talented artist who loves to draw. *Interviews with Case Manager and Parents*.

4. Over the summer of 2025, Student asked her Parents if she could be evaluated for an ASD. *Interview with Parents*. Student's pediatrician referred them to a psychologist ("Private Evaluator") who evaluated Student in August 2025. *Interview with Parents*; *Exhibit 1*, p. 39.

5. Private Evaluator compiled various formal assessments and rating scales into a report ("Private Evaluation") which diagnosed Student with an ASD. *Exhibit 1*, pp. 39-59. Private Evaluator shared Student's diagnosis with Parents and Student on September 10, 2025. *Id*. at p. 39; *Interview with Parents*. She provided the Private Evaluation to them September 26. *Id*.

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

B. District's Policies, Procedures and Practices

6. District trains staff using the CDE's IEP Procedural Guidance ("Guidance"). *Response*, p. 7; *Interview with District's Assistant Director of Special Education ("Assistant Director")*. Staff are expected to review the Guidance and follow its recommendations. *Id*.

Child Find

7. The Guidance advises districts to refer any "student who needs or is believed to need special education or related services" for an evaluation to determine whether they are eligible under the IDEA. *Exhibit N*, p. 16. Referrals can be made by parents or District staff who believe the student may have a disability. *Id*.

8. Once a referral is made, staff must review the referral and existing information "to determine the appropriateness of the referral." *Id*. If the referral is not appropriate, District must provide Prior Written Notice ("PWN") of the refusal to initiate the evaluation process. *Id*. at p. 17.

9. If the referral is appropriate, a Multidisciplinary Team ("MDT") reviews the data to determine if "additional evaluation data are needed." *Id*. at p. 16. Parents must be given a copy of the Procedural Safeguards Notice and PWN & Consent for Evaluation. *Id*. at p. 17. Once consent is signed, District has 60 days to complete the initial evaluation. *Id*. at pp. 20-21.

10. School provides certain supports, like frequent check-ins, to all students. *Interview with Case Manager*. If students need more help, School considers additional assistance through its multitiered systems of support ("MTSS") process. *Id*. All grade level teachers meet every couple of weeks to discuss any students who are struggling. *Id*. Together, they identify next steps like contacting parents or trialing new interventions. *Id*.

11. If a student continues to struggle with the MTSS supports in place, staff will refer them for evaluation. *Id*. In spring 2026, School implemented a more formal system for tracking MTSS interventions, including what has been tried and what the impact was. *Id*.

Extended School Year Services

12. The Guidance advises IEP Teams to determine whether a student requires extended school year ("ESY") services by reviewing data for evidence of significant regression or difficulties with recoupment of learned skills. *Exhibit N*, p. 71. The IEP must indicate the decision or if the team does not have enough data to make a decision. *Id*. at p. 72.

13. In addition, IEP Teams should consider whether there are "predictive" factors that indicate a need for ESY services. *Id*. at p. 71. Predictive factors include but are not limited to: (1) the degree of the student's impairment; (2) the parents' ability to provide educational structure at home; (3) the student's rate of progress; (4) behavioral and physical problems; and (5) "areas of the student's curriculum which need continuous attention." *Id*.

14. "[T]he purpose of ESY services is to prevent regression and recoupment problems." *Id*. at p. 72. Thus, ESY programs need not include all goals or mirror the student's placement during the school year. *Id*.

15. When an IEP Team discusses ESY, District's data management system automatically generates a worksheet ("ESY Worksheet") with questions about regression and predictive factors. *Interview with Case Manager*; *See Exhibit P*. The ESY Worksheet asks about a history of skill regression as well as how long it takes the student to recoup lost skills. *Exhibit P*. It also prompts the IEP Team to consider eight predictive factors to identify any factors that may jeopardize the retention of skills over the summer. *Id*.

C. Student's School Performance

16. Student enrolled at School at the start of the 2025-2026 school year. *Response*, p. 1, Before enrolling at School, Student was homeschooled for three years and attended a school in another country. *Exhibit B*, p. 1. Shortly after Student enrolled, on September 12, 2025, Parents contacted School's general education counselor ("Counselor") to request an evaluation for GT services. *Exhibit I*, p. 1; *Exhibit O*, p. 1.

17. Student was enrolled in six classes, including an English language arts ("ELA") class that was co-taught by Case Manager and a general education teacher. *Exhibit L*, p. 1; *Interview with Case Manager*. Student carried a notebook around with her and often drew in class, instead of completing work. *Interview with Case Manager*. She was also very social and could be distracted by peers. *Interviews with Case Manager and Counselor*. This resulted in low grades, mostly related to missing assignments. *Exhibit I*, p. 1.

18. Initially, District put some MTSS interventions in place to help Student adjust to attending school again. *Response*, p. 4; *Interview with Case Manager*. This included preferential seating, frequent check-ins, chunking assignments and redirections. *Id*.

19. At first, Student responded positively to those supports and could generally be redirected to her work with one to two prompts, which was not unusual for a seventh grader. *Interview with Case Manager*. However, her work completion decreased throughout the first semester. *Id*. That semester, Student ultimately failed three classes, including her co-taught ELA class, and earned a C in three others. *Exhibit L*. p. 3.

20. Second semester started January 7, 2026. *Exhibit M*. Student became less responsive to redirection and completed less work over time. *Interviews with Parents, Counselor and Case Manager*. At least once, she submitted an assignment that was blank other than her name. *Interview with Case Manager*. Student essentially needed an adult standing by her desk continuously to complete any work. *Id*.

21. She was also increasingly reluctant to attend School. *Interview with Parents*. Over the course of second semester, Parents reported at least 13 absences for mental health as well as several

tardies when Student had a "[r]ough morning." *Exhibit L*, pp. 4-8. She ultimately failed five of her six classes second semester. *Id*. at p. 3.

22. On the fall 2025 administration of the nationally normed Measures of Academic Progress ("MAP") assessment, Student scored in the low average range for math and the high average range for reading. *Exhibit B*, pp. 9-11; *Exhibit L*, pp. 9-10. On the winter administration, she scored in the average range on both assessments. *Id*. Finally, she scored in the high average range for reading on the spring 2026 MAP assessment, but she was unable to complete the spring MAP assessment for math. *Id*.; *Interview with Parents*.

D. Knowledge of Parents' Concerns and the Private Evaluation

23. On October 6, Parents contacted Counselor with concerns about Student's grades and late arrivals to class, especially after lunch. *Exhibit I*, p. 1. Student's grades were "mostly due to missing assignments," as Student was also under consideration for GT programming. *Id*. Counselor noted that Student was slow to leave the lunchroom. *Id*. Parents indicated that Student struggled with executive functioning and suggested some supports. *Id*. During this second call, Parents mentioned that Student had been diagnosed with an ASD. *Interviews with Parents and Counselor*. Counselor encouraged Parents to talk with Student's teachers at conferences that week. *Exhibit I*, p. 1.

24. During parent/teacher conferences on October 8, Parents talked with Student's teachers about her challenges and told them about her recent diagnosis with an ASD. *Exhibit 4*, p. 3; *Interviews with Parents and Case Manager*. Student also discussed her diagnosis in a narrative she wrote for her ELA class first semester. *Interview with Case Manager*.

25. During Student's GT evaluation in November, she told GT Teacher that she had recently completed similar testing. *Exhibit O*, p. 12; *Interview with GT Teacher*. GT Teacher followed up with Parents, who provided a copy of the Private Evaluation. *Exhibit O*, pp. 12, 19-34.

26. GT Teacher does not refer students for special education evaluations based on information that comes up during her assessments. *Interview with GT Teacher*. She also did not share the Private Evaluation with anyone at School or in District's special education department. *Id*.

27. Around January or February 2026, Counselor brought Student's information to a mental health team meeting to discuss possible next steps. *Interview with Counselor*. The group discussed that Student was not responding to MTSS and talked about referring Student for a special education evaluation. *Id*. Counselor did not pursue her own referral because Parents ultimately requested an evaluation. *Id*.

E. District Evaluation

28. On February 10, 2026, Parents called Counselor and verbally requested a special education evaluation. *Exhibit I*, p. 1. Counselor notified School's lead special education teacher ("Lead Teacher") of the request that day. *Id*.; *Interviews with Counselor and Lead Teacher*. It was a

busy time of year, so Lead Teacher put Student on a list to consider evaluating her but did not start the evaluation process. *Interview with Lead Teacher*.

29. Not having heard anything, on March 7, Parents emailed School's Principal a formal, written request for "a comprehensive initial evaluation" and included another copy of the Private Evaluation. *Exhibit O*, pp. 42-57. On March 9, Lead Teacher called Parents to schedule a referral meeting on March 11 to discuss their request for an evaluation. *Exhibit I*, p. 1.

30. After the meeting on March 11, District proposed an evaluation in the areas of general intelligence, communicative status, academic performance, social and emotional status, and health. *Exhibit C*, pp. 1-3. The evaluation was proposed based on the discrepancy between Student's failing grades and "her documented high cognitive potential." *Id*. at p. 1. Student's "[P]arents and teachers report[ed] severe executive dysfunction, including struggles with task initiation, following multi-step directions, and organization." *Id*.

31. District considered "[c]ontinuing with Tier 1 and Tier 2 interventions" but decided it had "not resulted in passing grades or improved task initiation." *Id*. at p. 2. In addition, the referral team considered whether Student's performance was "solely due to a lack of traditional classroom exposure." *Id*. Parents signed consent that day, March 11, 2026. *Id*. at pp. 1, 3.

32. District completed an initial evaluation ("District Evaluation") on May 7, 2026. *Exhibit B*, pp. 1-30. The District Evaluation identified "a moderate delay in the area of pragmatic language," average to high average academic performance, "repetitive/restricted interests and behavior," and "some executive functioning difficulties." *Exhibit B*, p. 30.

33. These characteristics "noted in the school setting [were] consistent with her medical diagnosis." *Id*. Student's disability was impacting her ability to participate in learning tasks, "shift attention away from preferred activities," "complete work as assigned," and "interact socially." *Id*. The MDT convened that same day, determining that Student was eligible for special education as a child with an ASD. *Exhibit E*, pp. 1-5.

F. IEP

34. Immediately after finding Student eligible, an IEP Team including Parent, Case Manager, a general education teacher, a mental health provider, and a speech and language pathologist ("SLP") developed an IEP ("IEP") for Student. *Exhibit O*, p. 61; *Exhibit A*, pp. 1-17; *Exhibit E*, p. 5. The IEP included a summary of the District Evaluation. *Exhibit A*, pp. 3-8.

35. The IEP included three goals. *Id*. at pp. 9-10. The first was a self-determination goal for Student to be able to independently break down multi-step academic tasks into single-step components using "a visual organizer or planner" in four out of five opportunities. *Id*. The social emotional goal sought to improve her social interaction skills in paired or group work instead of shutting down. *Id*. Finally, the language goal targeted her pragmatic

communication skills "including initiating interactions, and understanding the perspective of others across structured and unstructured settings." *Id*.

36. To support those goals, the IEP included 200 minutes per week with a special education teacher inside of general education. *Id*. at p. 13. It also included 90 minutes per month ("MPM") of direct support from a mental health provider, outside of general education to "address social/emotional and self-determination skills." *Id*. Finally, it included 60 MPM of direct support from an SLP outside of general education "to address pragmatic language." *Id*.

37. The IEP Team also considered whether Student required ESY services. *Id*. at pp. 14, 16. Parents requested ESY services because he saw Student's declining grades as evidence of regression and ESY as an opportunity to better prepare her for the following year. *Complaint*, p. 3; *Interview with Parents*. Parents were concerned that the IEP Team focused on the lack of data and did not consider the predictive factors. *Complaint*, p. 3.

38. School staff noted that there was no data regarding regression because this was her first IEP. *Exhibit A*, p. 14. The IEP Team talked through the ESY Worksheet, but School staff did not see any evidence to support the risk of regression over the summer. *Interview with Case Manager*. As such, Case Manager did not fill in the ESY Worksheet. *Id*. Student's cognitive profile indicated that she "could retain and readily acquire new skills notwithstanding any breaks in instruction." *Response*, p. 3.

39. Parent did not agree with this conclusion, so the IEP Team paused that conversation until it could connect with Assistant Director. *Exhibit A*, p. 16; *Interviews with Parents and Case Manager*. Parent and Assistant Director spoke about ESY on May 8. *Exhibit I*, p. 2. Assistant Director explained the purpose of ESY and why that was different than the compensatory services Parents were describing. *Interview with Assistant Director*. She reiterated that there was no evidence Student required ESY. *Interviews with Assistant Director and Parents*.

40. Case Manager finalized the IEP, which reflected that Student did not require ESY, on May 11, 2026. *Exhibit O*, pp. 132, 146, 147. School ended May 28. *Exhibit M*, p. 1. This was 90 calendar days after February 10, 2026. *Id.*

41. Since that time, Parents have withdrawn Student from District and intend to unilaterally enroll her in a private school for the 2026-2027 school year. *Exhibit 3*, p. 1.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District evaluated and identified Student after it was on notice that she might have a disability and need special education in February 2026, as required by 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3). District complied with the IDEA.

A. The Child Identification Process under IDEA

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

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

The threshold for suspecting a disability is relatively low. *Hawaii v. Cari Rae S.*, 158 F. Supp. 2d 1190, 1195 (D. Haw. 2001). The appropriate inquiry by a school district is "whether the child should be referred for an evaluation, not whether the child actually qualifies for the services." *Oxnard Sch. Dist.*, 118 LRP 48450 (SEA CA 2018). Suspicion "may be inferred from written parental concern, the behavior or performance of the child, teacher concern, or a parental request for an evaluation." *Cheyenne Mtn. Sch. Dist. 12*, 117 LRP 25901 (D. Colo. 2017) (quoting *Wiesenberg v. Bd. of Educ. of Salt Lake City Sch. Dist.*, 181 F. Supp. 2d 1307, 1311 (D. Utah 2002)).

The actions of a school district in terms of whether it had knowledge of, or reason to suspect, a disability must be evaluated in light of the information the district knew, or had reason to know, at the relevant time. *Oxnard Sch. Dist*., 118 LRP 48450 (SEA CA 2018). It should not be based on hindsight. *Id.*; *see also Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). School districts must systematically seek out IDEA-eligible students and may not take a passive approach and wait for others to refer students for special education. *Compton Unified Sch. Dist. v. Addison*, 54 IDELR 71 (9th Cir. 2010). Remaining vigilant for red flags and referring students who may have a disability and need special education is part of this ongoing obligation. *Arapahoe Cnty. Sch. Dist*. 5, 117 LRP 2988 (SEA CO 2016) (citing *Cincinnati City Sch*., 115 LRP 26069 (SEA OH 2015)).

However, "child find does not demand that schools conduct a formal evaluation of every struggling student," and "schools need not rush to judgment or immediately evaluate every student exhibiting below-average capabilities," especially at a time when students are acclimating to a new school environment. *D.K. ex rel. Stephen K. v. Abington Sch. Dist.*, 696 F.3d 233, 254 (3d Cir. 2012) (finding no child find violation where student was exhibiting behaviors typical of his age and district responded by implementing general education interventions with parents' cooperation); *Cherry Creek Sch. Dist. No. 5*, 125 LRP 10301 (SEA CO 2023) ("[T]he child find obligation does not extend to testing every student who is not successful when factors other than a disability would also explain the failure to progress") (citing *J.N. v. Jefferson Cnty. Bd. of Educ.*, 421 F. Supp. 3d 1288 (N.D. Ala. 2019)). And "mixed academic success does not—in itself—trigger a school district's obligation to evaluate." *Leigh Ann H. ex rel. K.S. v. Riesel Indep. Sch. Dist.*, 18 F.4th 788, 797 (5th Cir. 2021) (finding no child find violation where neither parent or

school staff expressed academic or behavioral concerns before parent requested an evaluation, and student was "an average student"); *Brighton 27J Sch. Dist.*, 119 LRP 37633 (SEA CO 2019) (finding no child find violation where student's performance was average and his behavior and academic performance were not sufficient to put the district on notice that student may have an IDEA-qualifying disability). Also, knowledge that a student has a privately obtained medical diagnosis or disability does not, by itself, create an obligation to evaluate. 34 C.F.R. § 300.111(a); *see also R.B. v. Napa Valley Unified Sch. Dist.*, 48 IDELR 60 (9th Cir. 2007) (explaining that a diagnosis of depression, standing alone, does not establish IDEA eligibility absent evidence that the condition satisfies the IDEA eligibility criteria and adversely affects the student's educational performance). Rather, districts must identify and evaluate students who may have an IDEA disability and need special education and related services. 34 C.F.R. § 300.111.

A school district may attempt pre-referral interventions before initiating an IDEA evaluation. *See, e.g.*, *M.G. v. Williamson Cnty. Schs.*, 720 F. App'x 280, 285 (6th Cir. 2018) (finding district "effectively utilized general intervention strategies" before evaluating student); *Denver Pub. Schs.*, 123 LRP 33002 (SEA CO 2023) (finding no child find violation where district did not have reasonable suspicion that student may be a student with a disability, even given certain behaviors, which district addressed via general education interventions). However, a response-to-intervention process cannot be used to delay or deny an evaluation. *Letter to Ferrara*, 60 IDELR 46 (OSEP 2012). School districts must act "within a reasonable time after school officials are on notice of behavior that is likely to indicate a disability." *Abington Sch. Dist.*, 696 F.3d at 250. The ECEA Rules require that the "initial IEP for a child shall be developed within 90 calendar days of the date that parental consent was obtained to conduct the initial evaluation." ECEA Rule 4.03(1)(d)(i).

In deciding whether District fulfilled its child-find obligations here, the CDE considers the individual circumstances of this case to determine whether District had a reason to suspect that Student needed to be evaluated for special education. *Cherry Creek Sch. Dist*., 119 LRP 30204 (SEA CO 2019); *Weld RE-4 Sch. Dist.*, 119 LRP 5662 (SEA CO 2019) (citing *Clark Cnty. Sch. Dist*., 114 LRP 45477 (SEA NV 2014)).

B. District's Child Find Obligation to Student

Here, Student enrolled in School at the start of the 2025-2026 school year, after four years of non-traditional education. (FF # 16.) Shortly thereafter, she was privately diagnosed with an ASD. (FF # 5.) In the fall, she demonstrated average academic abilities on the MAP assessment and Parents requested a GT assessment. (FF #s 16, 22.) At the same time, however, she was distracted in class and failing classes due to missing assignments. (FF # 17.) By early October, Parents and Student had told Counselor and several of Student's teachers about her diagnosis. (FF #s 23-24.)

District initially put MTSS interventions in place to help Student readjust to a traditional school setting. (FF # 18.) At first, Student responded well to the MTSS supports and was easy to redirect. (FF # 19.) Given Student's extended absence from traditional schooling, average academic

abilities, and initial response to MTSS, the CDE finds that District's decision to attempt general education interventions was reasonable.

However, over time, Student completed even less work. (FF # 19.) She ultimately failed half her first semester classes and did not earn above a C. (*Id*.) At the start of second semester, Student increasingly missed school for mental health days. (FF #s 20-21.) Then, on February 10, Parents requested a special education evaluation. (FF # 28.) This was also the same time School's mental health team considered referring her for an evaluation. (FF # 27.) For all these reasons, the CDE finds that as of February 10, District was on notice that Student might have an IDEA disability and be in need of special education and related services.

Thus, the CDE next considers whether District acted on that knowledge within a reasonable amount of time. *Abington Sch. Dist.*, 696 F.3d at 250. Lead Teacher put Student on a list of students to be considered for evaluation in February but did not immediately start the next steps. (FF # 28.) Parents reiterated their request for an evaluation in March and signed consent for an evaluation on March 11. (FF #s 29, 31.) District completed its evaluation on May 7, 2026, and found Student eligible for special education that same day. (FF #s 32-33). Ultimately, an IEP Team developed and finalized an IEP for Student, which was provided to Parents on May 11. (FF # 40.)

Although there was a delay between when District was on notice in February and when it initiated the evaluation process in March—a delay that could have resulted in noncompliance had District not taken action—District ultimately completed the evaluation, determined Student eligible for special education, and developed an IEP within 90 days of being on notice that Student might have a disability. (FF #s 28-40). Thus, the CDE finds that District acted on that knowledge with a reasonable time. For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.111 and ECEA Rule 4.02(1)-(3).

Conclusion to Allegation No. 2: District developed an IEP in May 2026 that considered Student's need for ESY services, as required by 34 C.F.R. §§ 300.106, 300.320 and 300.324. District complied with the IDEA.

A. Legal Requirements: IEP Development

The IDEA requires a school to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999 (2017). An analysis of the adequacy of an IEP begins with the two-prong standard established by the United States Supreme Court in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The first prong determines whether the IEP development process complied with the IDEA's procedures; the second prong considers whether the IEP was reasonably calculated to enable the child to receive an educational benefit. *Id.* at 207. If the question under each prong can be answered affirmatively, then the IEP is appropriate under the law. *Id.* Taken together, these two prongs assess whether an IEP is procedurally and substantively sound.

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

B. Development of the IEP

A school district must provide ESY services only if a child's IEP team determines on an individual basis that the services are necessary for the provision of FAPE to the child. 34 C.F.R. § 300.106(a)(2).

Here, Parents' concern is that the IEP Team did not individually determine Student's need for ESY because it did not consider the predictive factors. (FF # 37.) When Parents asked for Student to receive ESY services, the IEP Team reviewed the ESY Worksheet. (FF #s 15, 38.) School staff noted that there was no evidence of regression or problems with recoupment of skills because this was Student's first IEP. (FF # 38.) The IEP Team also considered the other factors but did not see any data indicating that Student was at risk of regressing over the summer. (*Id*.) When Parent disagreed with the determination, the IEP Team agreed to pause that discussion until it could consult with Assistant Director. (FF # 39.) Thus, the CDE finds and concludes that the IEP Team considered Student's need for ESY services, consistent with 34 C.F.R. § 300.106(a)(2). The CDE next considers the substantive adequacy of that determination. *Rowley*, 458 U.S. at 207.

C. Substantive Adequacy of the IEP

ESY services cannot be limited to a particular category of disability or unilaterally limited in the type, amount, or duration of those services. 34 C.F.R. §300.106(a)(3). ESY services are not intended or required to maximize a student's educational benefit. *Cordrey v. Euckert*, 17 IDELR 104 (6th Cir. 1990), cert denied, 499 U.S. 938 (1991). Instead, ESY services are appropriate when the body of evidence demonstrates that the student will experience a severe loss of skills or knowledge that will significantly jeopardize the educational benefit gained during the regular school year. *Johnson v. Indep. Sch. Distr. No. 4 of Bixby, Tulsa Cty.,* 921 F.2d 1022 (10th Cir. 1990); *Colorado Springs Dist. 11*, 110 LRP 22639 (SEA CO 2010).

There are factors, other than regression and recoupment, that may be analyzed to determine whether ESY is a necessary component of FAPE. *Johnson v. Indep. Sch. Distr. No. 4 of Bixby, Tulsa Cty.,* 921 F.2d 1022 (10th Cir. 1990). These include: a child's degree of regression suffered in the past, the exact time of past regression, the ability of parents to provide educational structure at home, a child's rate of progress, a child's behavioral and physical problems, the availability of alternative resources, the ability of the child to interact with nondisabled children, the areas of a

child's curriculum that need continuous attention, a child's vocational needs, and whether the requested services are extraordinary for the child's condition as opposed to an integral part of a program for populations of students with the same disabling condition. *Id.*

In this case, Parents' concern is that Student required ESY to address her regression over the prior year and prepare her for the following school year. (FF # 37.) This was, in essence, a request for compensatory services. (FF # 39.) ESY is not a compensatory service and is not intended to develop new skills or recover previously lost skills. *See e.g. Cordrey*, 17 IDELR 104. Rather, ESY services are intended to prevent or minimize regression so that students can progress from year to year instead of spending too much of the next school year relearning skills from the prior year. *See Johnson*, 921 F.2d 1022. As this was Student's first IEP, there was no data indicating a regression of skills during school breaks or prolonged difficulties regaining skills. (FF # 38.) Rather, Student's profile suggested that she could retain and relearn skills. (*Id*.)

Thus, the CDE finds and concludes that District considered Student's need for ESY services, as required by 34 C.F.R. §§ 300.106, 300.320, 300.324. District complied with the IDEA.

REMEDIES

The CDE concludes that District complied with the requirements of the IDEA and ECEA. Accordingly, no remedies are ordered.

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 21st day of August, 2026.



Rachel Dore
Senior State Complaints Officer

APPENDIX

Complaint, pages 1-4

- Exhibit 1: Miscellaneous

Response, pages 1-8

- Exhibit A: IEP
- Exhibit B: Evaluation
- Exhibit C: Consent for Evaluation
- Exhibit D: None
- Exhibit E: Meeting Documentation
- Exhibit F: Private Evaluation
- Exhibit G: None
- Exhibit H: Request for Evaluation
- Exhibit I: Contact Log
- Exhibit J: None
- Exhibit K: Progress Report
- Exhibit L: Student Detail Report
- Exhibit M: District Calendar
- Exhibit N: Guidance
- Exhibit O: Correspondence
- Exhibit P: ESY Worksheet

Reply, pages 1-6

- Exhibit 2: Correspondence
- Exhibit 3: Correspondence
- Exhibit 4: Correspondence
- Exhibit 5: Invoices

Telephone Interviews

- GT Teacher: July 30, 2026
- Case Manager: July 30, 2026
- Counselor: July 30 and 31, 2026
- Assistant Director: July 30, 2026
- Parents: July 31, 2026
- Lead Teacher: August 3, 2026
- EF Coach: August 5, 2026