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

State Complaint SC2026-602
Colorado Springs School District 11

DECISION

INTRODUCTION

On June 12, 2026, the parent ("Parent") 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 Colorado Springs School District 11 ("District"). The Colorado Department of Education ("CDE") determined that the Complaint identified one allegation subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

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

RELEVANT TIME PERIOD

The CDE has the authority to investigate alleged noncompliance that occurred 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 June 12, 2025. Information prior to June 12, 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:

1. District did not implement Student's Individualized Education Program ("IEP") during the 2025-2026 school year because it:

[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.

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); and

b. Did not provide the specially designed literacy instruction listed in the IEP, 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. During the 2025-2026 school year, Student attended fifth grade at a charter school ("School") authorized by District. *Exhibit A*, p. 35. District is responsible for providing FAPE to all IDEA-eligible children with disabilities attending a charter school it authorizes. ECEA Rule 2.03. Student attended School until April 10, 2026, when Parent withdrew him from District. *Response*, p. 1; *Exhibit C*; p. 3.

2. Student is personable, kind, creative, and hardworking. *Interviews with Parent and Student's case manager ("Case Manager")*; *Exhibit A*, p. 39. He enjoys sports, seeing friends, and playing outside. *Interviews with Parent and Case Manager*; *Exhibit A*, p. 39.

3. Student is eligible for special education and related services as a child with a Specific Learning Disability ("SLD") in reading. *Exhibit A*, p. 35. Student has dyslexia and struggles with reading, specifically decoding words. *Id*. at pp. 16, 34, 51; *Interviews with Parent and Case Manager.*

4. In her Complaint, Parent asserts that Student did "not receiv[e] his pull-out services for reading as outlined in his IEP." *Complaint,* p. 3. District denies this concern raised by Parent. *Response*, p. 3.

B. District's Policies, Practices, and Procedures

5. District's interim Director of Special Education ("Director") during the 2025-2026 school year described District's efforts to ensure that special education services are being provided consistent with students' IEPs. *Interview with Director.*

6. District has developed a comprehensive plan for the provision of special education ("the Plan"). *Id.*; *Exhibit H*, pp. 1-87. The Plan is written consistent with special education legal requirements. *See Exhibit H*, pp. 1-87. District makes the Plan available to all staff, including charter school staff, through the District website. *Interview with Director*. District provides

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

additional information and resources related to special education compliance through the District website. *Id*.

7. District also offers professional development to staff on a variety of topics with respect to special education compliance. *Id.* District always invites charter school staff to attend trainings. *Id*. In addition, District holds monthly special education staffing coordinator meetings with staff from every District school, including charter schools, on different topics related to special education compliance. *Id.*

8. To ensure implementation of IEPs, District requires service logs and audits the service logs from a randomly selected District school each month to confirm services are being provided and documented. *Id*.

9. In addition, District provides support to School when questions arise or assistance is needed. *Id.* During the 2025-2026 school year, a District special education coordinator helped School navigate District's policies by answering questions about IEPs and providing updates about District policies. *Interview with School's Director of Student Services ("DSS").*

C. Accessibility of Student's IEP to Teachers and Others

10. School requires all staff to attend yearly training before the school year starts, including before the 2025-2026 school year began. *Interview with DSS*. As part of the training, DSS and staff reviewed each teacher's roster, identified which students had IEPs, and ensured teachers understood the requirements of the students' IEPs. *Id.; see Exhibit H,* pp. 91-126. DSS also delivered a presentation to all faculty to help them understand students' accommodations and how to implement them into their lessons. *Interview with DSS*; *Exhibit H*, pp. 91-126.

11. Each student's case manager is expected to communicate information about the student's services and schedule for special education to the student's teachers. *Interview with DSS*. In addition, to ensure School provides required service minutes, service providers must track student attendance and service delivery daily by entering the information into a digital form. *Id*.

12. Per School procedure, after an IEP meeting, case managers should share the IEP "snapshot" with teachers. *Exhibit H*, p. 132. The procedure specifies that "the Case Manager can print sections of the IEP to share with teachers (i.e., goals, accommodations, test accommodations) or share on teachers'/grade level OneNotes." *Id*. Case managers are also directed to update the Exceptional Student Services ("ESS") Roster with information about the student's "accommodations, testing accommodations, preferential seating, and case manager." *Id*. Then DSS shares the ESS Roster "with grade-level leads and/or teachers." *Id*.

13. Case Manager served as Student's case manager and special education teacher during the 2025-2026 school year. *Interview with Case Manager*; *Exhibit A*, pp. 21, 63. At the start of the

school year, Case Manager met with every service provider and gave them each a binder containing IEP snapshots for every student with an IEP, including Student. *Interview with Case Manager*. Student's IEP snapshot described his accommodations, service minutes, IEP goals, and other information relevant to implementing the IEP. *Id.; Exhibit A,* pp. 22-23. In addition, Student was added to School's ESS Roster for the 2025-2026 school year. *See Exhibit C*, p. 8.

14. Case Manager met monthly with teachers to review each student's accommodations and address any concerns. *Id.* Case Manager also discussed students and their IEPs weekly with the paraprofessionals who help provide special education instruction. *Id.*

D. Student's May 2025 IEP

15. At the start of the 2025-2026 school year, Student's IEP developed in May 2025 ("IEP 1") was in effect. *Exhibit A*, p. 1. IEP 1 noted Student "[found] it challenging to stay focused during both group and independent work. He can be easily distracted by his peers or surroundings." *Id.* at p. 7. Per IEP 1, Student "learn[ed] best with guidance and support." *Id.* at p. 5.

16. IEP 1 included Student's reading scores for the Measures of Academic Progress (MAPS) testing in fourth grade. *Id.* at p. 6. Those scores showed that Student regressed from the beginning of fourth grade until the end of fourth grade. *Id.* IEP 1 did not include any information on Student's progress towards any literacy-related IEP goals during the 2024-2025 school year. *See id.* at pp. 1-7.

17. IEP 1 required 90 minutes per week ("MPW") of specialized literacy instruction, 60 MPW of writing instruction, and 60 MPW of specialized math instruction, all to be provided by a special education teacher outside of the general education classroom. *Id.* at pp. 19-20.

18. IEP 1 included annual goals in the areas of reading, writing, and math. *Id.* at pp. 10-12. Relevant to this investigation, Student's reading goal proposed that Student would "demonstrate understanding of grade-level texts by accurately answering comprehension questions with 80% accuracy in occurrences versus opportunities." *Id.* at p. 10. The related objectives tasked Student with identifying three key details in a story and making inferences about characters' feelings and motivations. *Id*.

19. IEP 1's service delivery statement provided that Student's services "[would] be provided in accordance with the approved school year calendar." *Id.* at p. 19. The service delivery statement further indicated that "[s]ervice times will exclude holiday breaks, assemblies, field trips, class projects/parties, state/district assessment dates, student support calls, and student absences" (collectively, "Exempted Activities"). *Id.*

E. Implementation of Specialized Literacy Instruction under IEP 1

20. Parent questioned whether the reading instruction Student received during the first semester of the 2025-2026 school year constituted specialized literacy instruction as required by IEP 1. *Interview with Parent*.

Student's Literacy Programming

21. During the 2025-2026 school year, Case Manager pulled Student from the general education classroom to receive literacy instruction in the special education classroom ("the Learning Lab"). *Interview with Case Manager*. For the entire school year, Student had a set schedule for his literacy instruction: 40 minutes per day, Monday through Thursday. *Id.; Response*, p. 3. Under this schedule, Student received 160 minutes per week of reading instruction, even though IEP 1 only required 90 minutes per week. *Interview with Case Manager.* Case Manager added extra service time to Student's schedule to preemptively make up for any missed sessions caused by various fifth grade events and activities. *Id.*

22. Literacy sessions started with a two-minute ball-passing exercise to help students transition. *Id*. Student then worked on online lessons in Read Naturally Live ("RNL") for the remainder of the 40-minute class. *Id.* While Student completed RNL, Case Manager often worked on literacy with another group of students in the Learning Lab. *Id.* Neither Case Manager nor the paraprofessionals provided any instruction outside of RNL during Student's literacy intervention time. *Id.*

23. RNL is an online literacy intervention that Student accessed on a computer in the Learning Lab. *Id*. With RNL, students work at their own pace on reading material at their instructional level. *CDE Exhibit 1*. The program guides students through the steps using text and audio. *Id.* "The student masters a story by reading along with audio and then practicing the story until he or she can read it fluently and with comprehension." *Id.* Though RNL automatically tracks a student's progress, teachers can also measure a student's fluency and enter it into the program. *Id.* This type of programming can be challenging for a student with a reading disability and, in particular, students who have trouble focusing. *Interview with CDE Specialist.* Computerized programs for students with reading difficulties often cannot provide the necessary feedback or varied instruction needed by kids with reading difficulties. *Id.* These programs typically cannot identify why the child is making the error; instead, the program just tells the child the answer is wrong and then provides another question to see if they understand. *Id.* A program designed by a teacher specifically for Student's needs would have been a better fit. *Id.*

24. At the beginning of the school year, Case Manager tailored Student's RNL lessons to his needs based on an initial assessment in the program. *Interview with Case Manager*. For example, Student's lessons targeted decoding and fluency skills—two of his areas for growth. *Id*.

25. Student's RNL lessons involved Student reading a story out loud to a paraprofessional or, sometimes, Case Manager, who measured Student's fluency, errors and voice fluctuations, and then entered the data into the RNL program. *Id*.; *see Exhibit D*, pp. 6-23. Student then practiced reading the story independently while the paraprofessional worked with another student. *Interview with Case Manager*. After practicing independently, Student again read the story aloud to the paraprofessional. *Id*. The paraprofessional gave Student feedback about his errors, skill mastery, and any areas for improvement. *Id.*

26. As part of RNL, Student also answered reading comprehension questions about each story, including questions about the main idea of the story, a fact from the story, and vocabulary from the story (among other questions). *Exhibit D*, pp. 10-13. RNL has questions requiring a student to "write[ ] a short answer after drawing a conclusion based on facts from the story" and "write[ ] a summary statement about three facts from the story or write[ ] three facts from the story that support a summary statement." *Id.* at p. 13. However, those questions were not enabled for Student during Fall 2025, even though they were used during Spring 2025. *Id.* at pp. 10-12. None of the RNL comprehension questions used with Student during Fall 2025 targeted the two objectives under his annual goal. *See id.* at p. 13.

27. Student worked on a story until he demonstrated mastery. *Interview with Case Manager*; *see Exhibit D*, pp. 6-23. In September 2025, Student passed five stories. *Exhibit D*, p. 11. Student passed only six stories between September 30 and January 28, 2026. *Id.* at p. 10.

28. Case Manager frequently reviewed Student's RNL data and met weekly with the paraprofessionals to review Student's RNL data and discuss whether any adjustments were necessary. *Interview with Case Manager*.

29. Case Manager reported that Student had difficulty engaging with RNL during Fall 2025. *Id.* Data from RNL showed that Student's fluency regressed throughout fall semester. *Exhibit D*, pp. 6-7. This regression occurred even though the program lowered the level of his reading passages. *Id.* At the end of fourth grade, Student used sixth grade passages in RNL. *Id.* at p. 8; *Interview with Case Manager.* Student began fifth grade working on passages at a mid-fourth grade level but, in October 2025, the level of his RNL decreased to fourth grade. *Exhibit D*, pp. 6-7; *Interview with Case Manager*. Case Manager hypothesized that this change might have been made automatically by RNL due to his decoding skills. *Interview with Case Manager.*

30. School included a statement regarding Student's progress toward his annual goals dated November 12, 2025, in Student's subsequent IEP. *Exhibit A*, p. 47. The statement indicated that, compared to baseline, his fluency regressed and his comprehension increased. *Id.* However, the report did not identify the level of the reading passages used, and the data did not align with the objectives related to his annual IEP reading goal. *Id.* at pp. 10, 47. In addition, the report only provides data from a single point in time. *Id.* at p. 47. Aside from this report and the RNL reports, District did not provide any other progress monitoring on annual IEP goals for Student during the 2025-2026 school year. *See Exhibit D*, pp. 1-25. The RNL data provided shows how Student performed within RNL, though the data does not directly align with his annual IEP goal or its related objectives. *Id.*

Delivery of Student's Literacy Services

31. District provided service logs for Student's literacy instruction. *Exhibit B*. During the 2025-2026 school year, a paraprofessional took attendance and updated the digital service log daily under the supervision of Case Manager. *Interviews with Case Manager and DSS*. The service logs documented what services were provided to Student and by whom, when the services

were provided, the length of the services, the effectiveness of the services, and Student's attendance. *Exhibit B*; *Interview with Case Manager*.

32. At 90 MPW, IEP 1 required 198 minutes of direct specialized literacy instruction in August, 320 minutes in September, 306 minutes in October, 216 minutes in November, and 180 minutes in December 2025. *Exhibit A*, p. 19; *Exhibit G*. In arriving at these numbers, the CDE has considered days District would not have been required to provide services due to Exempted Activities. *Exhibit A*, p. 19; *Exhibit G*. For example, on August 21, School participated in District-wide assessments, so District was not obligated to provide services that day. *See Exhibit B*, p. 3.

33. Based on a review of District's service logs, the CDE finds that District provided the following literacy services in fall 2025:

    a. August 2025: 240 minutes

    b. September 2025: 542 minutes

    c. October 2025: 465 minutes

    d. November 2025: 340 minutes

    e. December 2025: 200 minutes

    Exhibit B, pp. 1-3, 11-12.

34. As reflected by the totals, District provided Student with the minutes required by IEP 1 each month during the Fall 2025 semester. *Id.* at pp. 1-3, 11-12. In fact, Student received 567 more minutes than required under IEP 1 during Fall 2025. *Id.*

F. Student's Reevaluation

35. During fall 2025, Parent requested that the IEP Team reevaluate Student. *Exhibit F*, p. 1; *Response*, p. 1; *Interview with Parent*. School conducted the reevaluation in or around October 2025. *Exhibit A*, p. 24.

36. As part of the reevaluation, Student completed the Kaufman Test of Educational Achievement 3 ("KTEA 3"). *Id*. at pp. 40-44. Student's KTEA reading composite score was average relative to national age-based and grade-based norms. *Id*. at pp. 41-43. Student's score on the reading comprehension subtest was average at the 30th percentile, while his scores on the letter and word recognition subtest were below average at the 14th percentile. *Id.* In addition, Student's KTEA decoding composite score fell below average at the 10th percentile. *Id.* at pp. 42-43. This score placed Student at a third-grade level. *Id.*

G. Student's January 2026 IEP

37. On October 28, 2025, an IEP Team meeting was held to discuss Student's reevaluation data and review IEP 1. *Response*, p. 1; *Exhibit E*; *Exhibit I*, p. 4.

38. Student's updated IEP ("IEP 2") was finalized in January 2026. *Interview with Case Manager.* On January 6, 2026, Case Manager emailed a copy of Student's updated IEP snapshot to the relevant staff members. *Interview with Case Manager*; *Exhibit I*, p. 1. In January 2026, after IEP 2 was finalized, Case Manager met with each of Student's teachers to review Student's updated IEP. *Interview with Case Manager.*

39. The second semester of the 2025-2026 school year began on January 12. *Exhibit G*. IEP 2 was in effect at the start of the second semester of the 2025-2026 school year. *See Exhibit I*, p. 1.

40. IEP 2 required 120 MPW of specialized literacy instruction provided outside the general education classroom "to address reading fluency deficits" and 30 MPW of direct writing support provided outside the general education classroom "to address writing deficits." *Exhibit A*, p. 61. All of Student's services were to be provided by a special education teacher. *Id*.

41. IEP 2 described two annual goals, one each in reading and writing. *Id.* at pp. 54-55. Student's reading goal proposed that Student would "improve reading fluency by accurately reading a grade-level passage aloud at a rate of at least 150 words correct per minute (WCPM) with 90% accuracy in three out of four consecutive opportunities." *Id.* at p. 54.

42. Like IEP 1, IEP 2's service delivery statement provided that Student's services "[would] be provided in accordance with the approved school year calendar" and that service time would exclude Exempted Activities. *Id.* at p. 61.

H. Implementation of Specialized Literacy Instruction under IEP 2

43. Starting in late January 2026, Student no longer worked on RNL in the Learning Lab. *Interview with Case Manager.* Instead, Student's literacy instruction consisted of Socratic-style small group instruction led by Case Manager. *Id.* These lessons involved reading out loud as a group and discussing the text in a Socratic manner. *Id*. In these sessions, Student focused on vocabulary in the text, comprehension of the story, and reflection as a group. *Id.* According to Case Manager, Student became more engaged and invested in his literacy class once he switched to the Socratic-style small group instruction. *Id*.

44. At 120 MPW, IEP 2 required 288 minutes of direct specialized literacy instruction in January, 324 minutes in February, 198 minutes in March 2026, and 60 minutes in April 2026. *Exhibit A*, p. 61; *Exhibit G*. Student withdrew from School on April 10, 2026. *Response*, p. 1; *Exhibit C*; p. 3. As with the analysis above, the CDE has considered days District would not have been required to provide services due to Exempted Activities in arriving at these numbers. *Exhibit A*, p. 61; *Exhibit G*.

45. After reviewing District's service logs, the CDE finds that District provided the following literacy services during the second semester:

    a. January 2026: 370 minutes

    b. February 2026: 510 minutes

    c. March 2026: 280 minutes

    d. April 2026: 60 minutes

    Exhibit B, pp. 12-14. Based on these numbers, District provided Student with the minutes required by IEP 2 each month during the Spring 2026 semester. *Id*. Student received 350 more minutes than required under IEP 2 during Spring 2026. *Id*.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District ensured that staff had access to and an understanding of responsibilities for implementing Student's IEPs, as required by 34 C.F.R. §300.323(d). District did not implement the specialized literacy instruction required by Student's IEP, as required by 34 C.F.R. § 300.323(c). This resulted in a denial of FAPE.

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. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 391 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). As soon as possible after an IEP is developed, school districts must implement the IEP by ensuring that: (1) teachers and related service providers responsible for implementation have access to and an understanding of their obligations under the IEP, and (2) special education and related services are made available to the child in accordance with the IEP. 34 C.F.R. §§ 300.323(d), 300.323(c)(2).

B. 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).

Here, the Record shows that Student's IEPs were accessible to District and School staff responsible for their implementation. Beginning with back-to-school training, School staff reviewed and discussed Student's IEP to ensure they understood its requirements. (FF # 10). Staff were also provided a copy of Student's IEP snapshot—both at the beginning of the year and once his IEP was revised. (FFs # 13, 38). Case Manager also met weekly with the paraprofessionals who helped provide Student's literacy instruction to discuss Student's services and whether any adjustments were necessary. (FFs # 14, 28). These facts also show teachers and providers were informed of their responsibilities under Student's IEPs, as well as the specific accommodations, modifications, and supports required by his IEPs. Based on these facts, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

C. Implementation of the Specialized Literacy Instruction in Student's IEPs

In implementing an IEP, a school district must provide special education and related services "in conformity with" the IEP. 34 C.F.R. §§ 300.17, 300.323(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 5/4/18). Instead, "the [CDE] must also determine whether the failure was material." *Id*.

Material failures to implement an IEP constitute a denial of FAPE and substantive noncompliance with the IDEA. *Van Duyn*, 502 F.3d 811 at 822. "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP." *Id.* Courts will consider a case's individual circumstances to determine if there is a "material failure of implementing the IEP." *A.P. v. Woodstock Bd. of Educ.*, 370 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 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?

Prong 1: Was there a Shortfall in Services?

The CDE must first determine whether there was a shortfall between the services required by the IEPs and those made available to Student. 34 C.F.R § 300.323(c)(2). In the Complaint, Parent has asserted that Student did not receive the literacy instruction required by his IEPs. (FFs # 4, 20.) Specifically, Parent alleges his RNL lessons did not qualify as specialized literacy instruction required under IEP 1. (*Id.*) With this concern, Parent has focused more on the nature of the services provided, rather than the number of minutes he received. (*Id.*)

From the start of the 2025-2026 school year through January 5, 2026, IEP 1 required the provision of 90 MPW of specialized literacy instruction. (FFs # 15, 17, 38.) Given Exempted Activities, Student needed 198 minutes of direct specialized literacy instruction in August, 320 minutes in September, 306 minutes in October, 216 minutes in November, and 180 minutes in December 2025. (FF # 32.) As detailed in the Findings of Fact, Student received all the minutes required by IEP 1 from August 2025 through December 2025. (FFs # 33-34.) In fact, Student received 567 minutes more than required by IEP 1. (FF # 34.) However, providing services in excess of those required by the IEP does not, by itself, demonstrate compliance with the IDEA. *Letter to McAndrews and Ramirez*, 124 LRP 33702 (OSEP 09/05/24) (explaining that providing more services than those required by the IEP may result in noncompliance with IDEA). Additional services cannot substitute for required services that were not delivered as specified in the IEP. *Id.* The question remains whether the services in Fall 2025 qualified as specially designed instruction required by IEP 1.

Specially designed instruction ("SDI") means "adapting, as appropriate to the needs of [the child], the content, methodology, or delivery of instruction—(i) [t]o address the unique needs of the child that result from the child's disability; and (ii) [t]o ensure access of the child to the general curriculum, so that the child can meet educational standards within the jurisdiction of the public agency that apply to all children." 34 C.F.R § 300.39(b)(3); *see also* ECEA Rule 2.44. The CDE has previously considered whether independent work constitutes SDI under the IDEA. In a 2022 decision, the CDE found individualized independent work that was directly tied to that specific student's needs and coupled with immediate feedback could "be part of direct services." *Denver Pub. Schs.*, 125 LRP 23245 (SEA CO 2022). At the same time, the CDE concluded that independent work on "general education assignments" during time dedicated to direct literacy instruction did not qualify as SDI. *Id.* Subsequently, in a 2025 decision, the CDE found an online reading program qualified as SDI where the lessons were "targeted to Student's level based on assessment results" and paired with instruction from a special education teacher. *Mesa County Valley Sch. Dist. 51*, 125 LRP 30510 (SEA CO 2025).

Here, Student spent all his specialized literacy instruction time on RNL. (FF # 22.) Nothing in the Record suggests Student received any direct instruction from a special education teacher, whether Case Manager or a paraprofessional under her supervision. (*Id*.) While RNL might have been an appropriate *component* of Student's literacy instruction, it was not adequate as his only SDI in literacy, especially given his acknowledged difficulty focusing and distractibility during independent work. (FFs # 15, 23.) In addition, Student's RNL lessons did not target his annual goal related to reading comprehension. (FFs # 18, 26.) That goal specifically challenged Student to show "understanding of grade-level texts by accurately answering comprehension questions with 80% accuracy." (*Id*.) The two related objectives required identification of three key details and making inferences about a character's feelings and motivations. (*Id.*)

Though Student had some reading comprehension questions in RNL, the questions most aligned to his annual goal were not enabled for Student during Fall 2025. (FF # 26.) Those questions would have required Student to write three facts from the story that supported a summary statement. (*Id*.) As it was, nothing in RNL directly measured Student's progress on the objectives under his annual IEP goal and, indeed, he was not even reading grade-level passages. (FFs # 26, 29-30.) Although Case Manager indicated she tailored Student's RNL lessons to his needs based on an initial assessment, targeting fluency and decoding, the CDE finds that Student's RNL lessons did not address his needs in reading comprehension. (FFs # 3, 18, 24, 26). In addition, Student did not receive any other literacy instruction targeting reading comprehension. (FFs # 22-24).

Overall, Student's work on RNL was independent, unaligned with his individual literacy needs, and not paired with instruction from a special education teacher. (FFs # 22-23, 25-26.) For these reasons, specifically that the RNL lessons did not provide the direct SDI required by IEP 1, the CDE finds and concludes that there was a shortfall in Student's specialized literacy instruction in the first semester of the school year.

During second semester, IEP 2 required 120 MPW of specialized literacy instruction. (FFs # 39-40.) Given Exempted Activities, Student needed 288 minutes of direct specialized literacy instruction in January, 324 minutes in February, 198 minutes in March 2026, and 60 minutes in April 2026. (FF # 44.) In Spring 2026, Student no longer worked independently in RNL and instead received small-group instruction from Case Manager. (FF # 43.) During these sessions, students read texts aloud, focused on vocabulary, and discussed the texts. (*Id.*) This Socratic-style instruction proved to be a better fit for Student and his engagement increased. (*Id*.) No question exists as to whether the services provided in Spring 2026 qualify as SDI. As detailed in the Findings of Fact, Student received all the minutes of specialized literacy instruction required by IEP 2 from January 2026 through April 2026, including 350 extra minutes. (FF # 45.) Based on this, the CDE finds and concludes that there was no shortfall in Student's specialized literacy instruction during second semester of the school year.

Prong 2: Was the Shortfall Material?

Because there was a shortfall in the Student's specialized literacy instruction, the CDE must next determine whether this shortfall represented a material failure to implement Student's IEP such that Student was denied FAPE.

Here, for one-half of the school year, Student received literacy instruction that did not meet his individualized needs. In addition, District did not provide any progress reports that allowed the CDE to adequately evaluate Student's progress on his annual IEP goals. (*See* FF # 30.) A summary of Student's progress in November 2025 showed Student made progress on his annual goal in reading comprehension while regressing in reading fluency. (FF # 30.) However, the summary also does not provide any data regarding Student's progress on his objectives and does not identify the level of reading passages used. (*Id*.) Accordingly, the CDE is unable to determine whether Student made any progress on his annual IEP reading goal in the fall semester.

Student's literacy services were one of the key components under IEP 1. (FFs # 3, 17.) Focusing strictly on numbers, District provided Student with the minutes required by IEP 1 and IEP 2 each month during the 2025-2026 school year. (FFs # 33-34, 45.) However, as detailed above, the programming Student received through RNL during Fall 2025 did not constitute SDI under the IDEA. Though RNL could have appropriately been *part* of Student's SDI, it was not adequate to meet Student's needs without additional instructional support. During Fall 2025, Student had difficulty engaging in RNL, and his RNL showed regression even when the difficulty of the passages decreased. (FF # 29.) For these reasons, the CDE finds that the shortfall in Student's literacy instruction was material. Accordingly, the CDE finds and concludes that District did not implement Student's IEP, as required by 34 C.F.R. § 300.323(c)(2), resulting in a denial of FAPE. *See Van Duyn*, 502 F.3d 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.").

D. Compensatory Services

Compensatory services are an equitable remedy intended to place a student in the same position he would have been in if not for noncompliance. Reid v. Dist. of Columbia, 401 F.3d 516, 518 (D.C. Cir. 2005). Compensatory services need not be an "hour-for-hour calculation." *Colo. Dep't of Ed.*, 118 LRP 43765 (SEA CO 6/22/18). The guide for any compensatory award should be the stated purposes of the IDEA, which include providing children with disabilities a FAPE that meets the particular needs of the child, and ensuring children receive the services to which they are entitled. *Ferren C. v. Sch. Dist. of Philadelphia*, 612 F.3d 712, 717-18 (3d Cir. 2010).

Here, the CDE finds that Student is entitled to compensatory services to remedy the denial of FAPE. Though Student received literacy services throughout the 2025-2026 school year—and, indeed, even more services than required by his IEP—he did not receive the SDI intended by his IEP. (FFs # 22-23, 25-26.) District's reliance on RNL to deliver all of Student's literacy services left him disengaged and denied him the benefit of literacy instruction from a special education

teacher. (FFs # 29-30) Though the CDE has little data on Student's progress toward his annual goal, the information available suggests he regressed in fluency and used consistently easier passages for reading comprehension. (*Id.*). The CDE concludes that Student needs compensatory services to place him in the position he would have been had he received SDI consistent with IEP 1. Based on these facts, the CDE has awarded Student five hours of direct literacy instruction to compensate for the shortfall in his services during Fall 2025.

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

Here, the Record does not demonstrate systemic concerns regarding IEP implementation. The noncompliance in this investigation arose from circumstances specific to this case, including Student's individualized disability-related needs and the SDI chosen for him. Nothing suggests this noncompliance is likely to impact the future provision of services for all children with disabilities in District.

Additionally, the Record details District's policies, practices, and procedures that provide a framework for compliant IEP implementation. (FFs # 5-9.) District goes beyond IDEA requirements by mandating service logs District-wide, including in charter schools. (FF #8.) Although the IDEA does not require service logs, the CDE finds that District's practices around service logs demonstrate that it has a robust system in place to ensure that special education services are provided with fidelity.

For all these reasons, the CDE finds and concludes that the noncompliance is not systemic.

REMEDIES

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

1. Implementing Student's IEP, as required by 34 C.F.R. 300.323(c).

To demonstrate compliance, District is ORDERED to submit a corrective action plan ("CAP") by **September 15, 2026** that adequately addresses how the cited noncompliance will be corrected through the completion of the following remedies:

1. Final Decision Review

a. Director, DSS, and Case Manager must each read this Decision in its entirety, as well as review the requirements of 34 C.F.R. § 300.323 by **September 22, 2026**. If these individuals are no longer employed by District or School, the 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 **September 29, 2026**.

2. Compensatory Education Services

a. Student shall receive **5 hours of direct literacy instruction** provided by a suitable provider at District's expense. These services must be designed to target Student's fluency, decoding, and reading comprehension skills and must be provided in person. All compensatory services must be provided to Student by **February 1, 2027.**

b. The parties shall cooperate in selecting a suitable provider by **September 15, 2026**. If the parties cannot agree to a suitable provider, the parties shall each provide to the CDE the name, address, credentials, and hourly rate of their proposed provider no later than **September 18, 2026**. The CDE shall, in its sole discretion, select the provider and notify the parties by **September 25, 2026.**

c. To verify that Student has received the services required by this Decision, District must submit records of service logs to the CDE by the **second Monday of each month** until all compensatory services have been furnished. The name and title of the provider, as well as the date, the duration, and a brief description of the service must be included in the service log. The log must also reflect any payments made by District for the services.

d. These compensatory services will be in addition to any services Student currently receives, or will receive, from his new school district that are designed to advance Student toward his IEP goals and objectives. These compensatory services must be provided to Student outside of the regular school day (such as before and/or after school, on weekends, or during school breaks) to ensure Student is not deprived of the instruction to which he is entitled to receive during the school day (including time in general education).

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. *CDE's State Complaint Procedures*, Section E, ¶ 2. If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *Id.*; *see also* 34 C.F.R. § 300.507(a); 71 Fed. Reg. 156, 46607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer ("SCO").

Dated this 11th day of August, 2026.

Madeleine Chalifoux-Gene

Madeleine Chalifoux-Gene
State Complaints Officer

APPENDIX

Complaint, pages 1-5

- Exhibit 1: May 2025 IEP
- Exhibit 2: Tutoring Receipts

Response, pages 1-3

- Exhibit A: IEPs, IEP Snapshot, and Evaluation Report
- Exhibit B: Service Logs
- Exhibit C: Schedule, Grades, Attendance
- Exhibit D: Progress Data
- Exhibit E: Notice of Meeting
- Exhibit F: Consent for Reevaluation and Determination of Eligibility
- Exhibit G: School Calendar
- Exhibit H: School and District Policies
- Exhibit I: Correspondence
- Exhibit J: Contact List
- Exhibit K: Verification of Delivery

CDE Exhibits

- CDE Exhibit 1: Read Naturally Live: How It Works

Telephone Interviews

- Director: July 15, 2026
- Case Manager: July 15 and July 27, 2026
- DSS: July 16, 2026
- Parent: July 21, 2026