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

State Complaint SC2026-613
Littleton Public Schools

DECISION

INTRODUCTION

On July 8, 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 Littleton Public Schools (Arapahoe 6, Littleton) ("District"). The Colorado Department of Education ("CDE") determined that the Complaint identified three 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 due to exceptional circumstances, consistent with 34 C.F.R. § 300.152(b)(1)(i).

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 July 8, 2025. Information prior to July 8, 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 implement Student's Individualized Education Program ("IEP") because it:

    a. Did not make the IEP accessible to teachers or service providers responsible for its implementation from August 11, 2025 through June 1, 2026 as required by 34 C.F.R. § 300.323(d);

    b. Did not provide the speech-language services and specialized reading instruction listed in the IEP from August 11, 2025 through June 1, 2026, as required by 34 C.F.R. § 300.323(c).

    c. Did not provide certain accommodations listed in the IEP—specifically, a supportive plan to get Student to school from August 11, 2025 through June 1, 2026 and "time and space" during emotional dysregulation and use of a "calm down corner" on May 20, 2026—as required by 34 C.F.R. § 300.323(c).

2. District did not conduct a timely triennial reevaluation of Student that was due on or about April 25, 2026, as required by 34 C.F.R. § 300.303(b).

3. District did not conduct a comprehensive evaluation of Student on or around April 25, 2026, because it:

    a. Did not assess Student in all areas related to the suspected disability—specifically in the areas of social emotional learning and occupational therapy—as required by 34 C.F.R. § 300.304(c)(4).

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 a District elementary school ("School") in fifth grade. *Response*, p. 4; *see also Exhibit I*, p. 1. At the time, he qualified for special education and related services under the disability category of Speech or Language Impairment ("SLI"). *Exhibit A*, p. 1. As of May 19, 2026, he qualified under SLI, as well as Autism Spectrum Disorder ("ASD"). *See id*. at p. 16.

2. Student is a friendly, expressive, and empathetic boy with a strong sense of justice. *Interviews with Parents, Student's general education teacher ("General Education Teacher"), and Student's speech language pathologist/case manager ("Case Manager")*. He has previously

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

been recognized by District for his exemplary support of other students with disabilities. *Exhibit M*, pp. 2-3. He likes math and enjoys activities that allow him to build things, such as Legos or Minecraft. *Interviews with Parents and General Education Teacher*. Student recently qualified for District's Gifted and Talented program. *Exhibit M*, p. 350; *Interview with Parents*.

3. This investigation involves the implementation of Student's IEP during the 2025-2026 school year, as well as District's triennial reevaluation of Student due on or around April 25, 2026. *Complaint*, pp. 4-5. Parents allege that District did not implement Student's IEP requirements and that its reevaluation was neither timely nor comprehensive. *Id.*; *Interview with Parents*.

B. District's Policies, Practices, and Procedures

4. District's special education coordinator ("Coordinator") described District's efforts to ensure that staff and teachers are knowledgeable about and compliant with IDEA and ECEA requirements. *Interview with Coordinator*. These efforts include monthly department chair meetings to provide training and related materials, which the department chairs then share with school staff at weekly meetings. *Id.* District also provides written guidance on special education policy and practice to all staff through District's online intranet special education portal. *Id.*

5. District has a practice to ensure that each IEP is accessible to teachers and related service providers who are responsible for its implementation. *Id.* During preservice week, all teachers and service providers receive a snapshot of each student's IEP, which gives an overview of each student's service delivery, goals, and accommodations. *Id.*; *see also Interview with Case Manager*. IEPs are housed in a variety of ways that are accessible to teachers and other service providers, such as on Frontline, on Google Drive, and in hard copy. *Id.* Each school has a "Learning Services Support Team" that includes special education providers and teachers. *Id.* This team meets weekly, and special education teachers and providers regularly meet with each grade-level team. *Interview with Coordinator*. These meetings allow for direct communication regarding the IEP implementation responsibilities of each teacher and provider, as well as any changes to IEPs during the school year. *Id.*

6. Teachers and staff in District are directed to implement IEPs with fidelity. *Id.* District grants staff autonomy over how they track services, whether it be through EzEdMed, Google Sheets, or handwritten logs. *Id.* Services tracked through EzEdMEd are monitored through a structured system, while other methods are monitored through progress notes and file reviews. *Id.* District provides written guidance for tracking services via the special education portal. *Id.*

7. At the beginning of each year, District staff run reports through District's Frontline system to determine when students are due for reevaluations or annual reviews to ensure they are completed on time. *Id.* During reevaluations, District assesses students in each area of need. *Id.* To identify a student's areas of need, experts in a variety of areas review the student's

record or observe the student to determine whether additional assessments are required. *Id.* District also collaborates with parents and other providers throughout this process. *Id.*

C. Student's IEP

8. When the 2025-2026 school year began, Student's IEP dated April 9, 2025 was in effect. *Exhibit A*, pp. 1-14.

9. The IEP noted that Student's next eligibility meeting was to take place on or before April 25, 2026. *Id.* at p. 1.

10. The IEP included a record review from a private psychological evaluation ("Private Evaluation") sought by Parents in 2023, which determined Student did not present symptoms consistent with ASD. *Id.* at p. 5. Instead, the Private Evaluation concluded that Student's presentation was "complex" and that he was "best categorized as having an Other Specified Neurodevelopmental Disorder," rather than ASD. *Id*.

11. The IEP noted Student's attendance during the 2024-2025 school year as "10 full days of absences so far this year with 7 being due to illness, 1 for a family event, and 2 reported as refusals to come to school." *Id.* The Parent/Student Input section indicates that "[Parents] feel that [Student] has had a great school year. He is handling his morning routine well in the home and can even manage screen time before leaving the house." *Id.* at p. 6.

12. The Student Needs and Impact of Disability section stated that his speech language impairment impacted his ability to effectively communicate. *Id.*

13. The IEP contained three annual goals: two reading goals and one communication goal targeting Student's articulation. *Id.* at pp. 6-8.

14. The IEP identified ten accommodations as necessary for Student to access general education. *Id.* at p. 8. The accommodations relevant to this investigation included:

    - "Provid[ing] time and space when [Student] becomes upset, allowing for use of calm down corner (w/ guidelines of 3 minutes using a glass timer, breathing strips and space)" and

    - "Provid[ing] supportive plan to help [Student] get to school, especially during the historically difficult months of November through January."

    Id.

15. The IEP's Service Delivery Statement required Student to receive the following special education and related services:

- Speech Language Services: 30 minutes per week of direct speech language services provided by a speech language pathologist outside of the general education classroom "to target articulation."

- Specialized Reading Instruction: 120 minutes per week of direct specially designed reading instruction provided by a special education teacher in a small group outside of the general education classroom "to address lagging reading skills."

Id. at p. 11.

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

16. Once class lists were finalized near the end of the 2024-2025 school year, School organized a meeting between current teachers and providers and future teachers to discuss the needs of students with IEPs. *Interview with Case Manager.*

17. At the beginning of the 2025-2026 school year, Case Manager met with School's teachers to review the teachers' responsibilities under the IEPs of the students in their classes, including Student. *Interviews with Case Manager and General Education Teacher*. Case Manager also provided printed copies of the students' IEP snapshots, and School maintained full copies both in print and online that were accessible to teachers and providers as needed. *Id.*; *see also Response*, pp. 6-7.

18. General Education Teacher read Student's IEP and kept a hard copy on hand for reference. *Interview with General Education Teacher*. General Education Teacher expressed familiarity with Student's accommodations and other requirements of his IEP during this investigation. *Id.*

19. Student's special education teacher ("Special Education Teacher") also read Student's IEP and was able to access a copy as needed. *Interview with Special Education Teacher*. She too expressed familiarity with Student's accommodations and his IEP generally. *Id.*

20. School's special education team also met weekly throughout the 2025-2026 school year to discuss students' services, accommodations, and needs, including those of Student. *Id.*

E. Implementation of Student's IEP Services

21. Parents' Complaint asserted that District did not provide Student's required speech-language and specialized reading services during the 2025-2026 school year. *Complaint*, p. 5; *Interview with Parents*.

Speech-Language Services

22. At the beginning of the school year, Case Manager—who is a speech-language pathologist—met with Student in a small group for speech-language services four days a week for 5-10

minutes per session. *Interview with Case Manager*; *see also Exhibit M*, p. 9. Case Manager always entered the time as seven minutes in her service log for "Medicaid billing" purposes, even if she met with Student for longer. *Interview with Case Manager*.

23. At the end of October, Case Manager began meeting with Student twice a week, including 15 minutes individually on Thursdays and 15 minutes in a group on Fridays. *Interview with Case Manager*; *see also Exhibit J*, pp. 4-8. Case Manager stated that both individual and group minutes counted for purposes of the IEP. *Interview with Case Manager*. The service logs reflect that Case Manager missed several days throughout the year due to absences, meetings, or supporting other students. *See generally Exhibit J*, pp. 1-8.

24. At a rate of 30 minutes per week, Student's IEP required him to receive 900 minutes of speech-language services over the course of the school year. *See Exhibit A*, p. 11; *Exhibit D*, p. 3. After reviewing the service log, as well as District's academic calendar and Student's attendance record, the CDE finds that Student received 589 minutes of speech-language services during the 2025-2026 school year. *Exhibit J*, pp. 1-8; *Exhibit H*, p. 1; *Exhibit K*. Accordingly, Student missed 311 minutes, which is approximately 5 hours. *Exhibit J*, pp. 1-8; *Exhibit H*, p. 1; *Exhibit K*.

Reading Instruction

25. From the beginning of the school year, Special Education Teacher met with Student four days a week in a small group setting to provide specialized reading instruction for 30 minutes each session. *Interview with Special Education Teacher*. Special Education Teacher used a handwritten service log that reflected which students were absent from a session. *Id.* She used her lesson plans. *Id.* She explained that the specialized reading instruction time was built into Student's schedule from 12:10-12:40 p.m. on Mondays, Tuesdays, Thursdays, and Fridays; therefore, if Student was in school on those days, he was receiving services, regardless of whether it was documented on the log. *Id.*; *Interview with Coordinator*; *see also Exhibit M*, p. 265.

26. At a rate of 120 minutes per week, Student's IEP required him to receive 4,200 minutes of specialized reading instruction over the course of the school year. *See Exhibit A*, p. 11. Again, the CDE reviewed the reading log, as well as District's academic calendar and Student's attendance record, to determine how many minutes Student received. *Exhibit J Supplement*; *Exhibit H*, p. 1; *Exhibit K*. The reading log indicates that Student received 3,000 minutes of services. *See generally Exhibit J Supplement.*

27. However, although the log began on August 21, 2025 and ended on May 1, 2026, Special Education Teacher provided services according to her 4-day-per-week schedule for the entirety of the school year. *Interviews with Special Education Teacher and Special Education Coordinator*. Therefore, the CDE finds Student received an additional 360 minutes that were not reflected in the log, for a total of 3,360 minutes. *Id.; see also Exhibit K; Exhibit H*, p. 1.

28. Additionally, Student was absent or suspended on fourteen days when he otherwise would have received a total of 420 minutes of reading instruction. *Exhibit H*, p. 1; *Exhibit K*; *Exhibit J Supplement.* Giving the District credit for these services, the CDE finds that Student missed 420 minutes of specialized reading instruction, which is 7 hours. *Id.*; *see also Exhibit K*; *Exhibit H*, p. 1.

Review of Student's Services & Compensatory Services

29. On April 19, 2026, Parents requested copies of Student's service logs. *See Exhibit 1*, p. 12. After receiving the logs on May 1, 2026, Parents expressed concern regarding a "significant gap" between the minutes reflected in the logs and what was required by the IEP. *Id.* at p. 19. At this time, Parents requested compensatory services for any missed minutes. *Id.*

30. On or around May 11, 2026, Coordinator met with Case Manager and Special Education Teacher to review the services provided to Student, including examining service logs and consulting the academic calendar and Student's attendance record. *Exhibit M*, p. 357; *Interviews with Coordinator, Case Manager, and Special Education Teacher*.

31. On May 26, 2026, District issued a Prior Written Notice ("PWN") documenting that "a review of service logs indicated that [Student] did not receive his full allocation of IEP services from August 11, 2025-May 8, 2026 due to staff absences and/or school-based events (i.e., assemblies)." *Exhibit D*, p. 3. The PWN specified:

> [Student] was to receive 4,200 minutes of academic services. He received 3,120 minutes. After subtracting nonstudent days and days [Student] was absent, the total time missed is 540 minutes, which is 9 hours. [Student] was to receive 900 minutes of speech-language services and received 484 minutes. After subtracting nonstudent days and days [Student] was absent the total time missed is 416 minutes, which is approximately 7 hours.

Id. These numbers vary from those calculated by the CDE above. District staff indicated that their calculation was intentionally conservative. *Interviews with Case Manager and Special Education Coordinator*; *see also Response*, p. 14.

32. District offered four hours of speech-language services and four hours of specialized reading instruction as compensatory services, all to be delivered one-on-one with Student and the provider. *Exhibit D*, p. 3. Direct, individual instruction was offered instead of a 1:1 hour replacement for the missed service, because it would "increase the intensity of instruction and, therefore, require fewer hours." *Id.*

33. Parents accepted the compensatory services, and all eight hours of compensatory services were completed during Summer 2026. *Interview with Parents*.

34. Parents later requested additional compensatory minutes to make up for minutes that Student missed due to school refusals, which they attributed to the lack of a supportive plan provided by District to get Student to school. *Exhibit M*, p. 631; *Interview with Parents*.

35. Based on these facts, the CDE finds that District did not provide Student's speech language or specialized reading services consistent with the IEP during the 2025-2026 school year.

F. Implementation of Student's IEP Accommodations

36. In their Complaint, Parents also assert that District did not implement certain accommodations in Student's IEP, specifically a supportive plan to get Student to school and time and space during periods of emotional dysregulation and that, on May 20, 2026, District did not allow for use of a calm-down corner. *Complaint*, p. 5; *Interview with Parents*.

Supportive Plan for School Refusal

37. Student's IEP contained an accommodation requiring District to "[p]rovide [a] supportive plan to help [Student] get to school, especially during the historically difficult months of November through January." *Exhibit A*, p. 8.

38. In previous years, School successfully implemented the following strategies to assist with getting Student to school:

- "Meaningful work" or helping teachers with odd jobs, including a job as a Kindergarten Helper that required a 7:35 a.m. start time;
- Morning check-ins and/or phone calls from Case Manager;
- A flexible drop-off location outside the front doors;
- A "soft start," which involved Student doing relaxing or preferred activities prior to the start of school, including a "Lego soft start" in which Student built a Lego set in Case Manager's classroom; and
- Participation in Facing Your Fears, "an intervention program for youth with autism spectrum disorders who need assistance managing anxiety symptoms that interfere with daily life."

See Exhibit I, pp. 25, 27; *Interview with Case Manager*.

39. Parents explained that, historically, they coordinated with School at the beginning of the year to develop several standing incentives for Student, such as a soft start or certain preferred staff members meeting Student at the front door. *Interview with Parents*. Parents indicated that this supportive plan changed every year based on Student's needs and classroom and staff availability. *Id.*

40. In contrast, Case Manager—who had worked with Student and Parents for several years—described that, historically, the plan came together "as needed" once Student began exhibiting refusal behaviors. *Interview with Case Manager*. She explained that supports were available to be implemented at any time once Parents notified School that Student was struggling to leave the house. *Id.*

41. General Education Teacher explained that he offered a soft start to all students in his classroom by creating a calm "coffee shop vibe," with dimmed lights and the freedom to do preferred activities. *Interview with General Education Teacher*. He described that Student would often draw in the morning during the soft start. *Id.* School also offered breakfast, which Student often attended after checking in with General Education Teacher. *Id.*

42. On November 12, 2025, Case Manager emailed Parents to offer Student a job as a "helper" for another student, specifying that she thought it "could help us with a transition to school right around the bell time for the start of day." *Exhibit M*, p. 16. Parents agreed. *Id.*

43. Between August 12, 2025 and March 31, 2026, Student refused to attend school on three days: September 22, January 26, and February 2. *Exhibit H*, p. 1. Parents contacted Case Manager and General Education Teacher on two days in January 2026 to inform them that he had exhibited refusal behaviors, although he ultimately attended school on both days. *See Exhibit M*, pp. 36, 41-42. On both occasions, staff responded to Parents with a report on Student's emotional state and behavior, and Case Manager checked in with Student to figure out why the refusal had happened. *See id.* at pp. 41-42; *Exhibit J*, p. 6. Parents emailed Case Manager on February 18, 2026 expressing school refusal concerns for the following day and asking Case Manager to check in with Student, which she agreed to do. *Exhibit M*, pp. 64-68.

44. Student's absences sharply increased during the month of April, with Student missing school due to refusal on April 1, 6, 14, 15, 27, and 29. *See Exhibit H*, p. 1.

45. On April 27, 2026, School's Assistant Principal ("Assistant Principal") reached out to parents to offer additional supports. *Exhibit M*, p. 298. In addition to the "soft start" in General Education Teacher's room, this included reminders of upcoming school activities that Student was looking forward to; allowing him to play on the playground with parental supervision; Perler bead activities in Assistant Principal's office; an ongoing chess game with the principal in his office; math games and puzzles in the Gifted & Talented facilitator's classroom; meaningful work in the nurse's office; access to Case Manager's classroom or the school psychologist's office; and being met at the front door by the principal or Assistant Principal. *Id.* at pp. 291-96. Assistant Principal also invited him to suggest additional activities. *Id.* at p. 296. Additionally, during this time, Case Manager often met him at the car to help facilitate getting him into school, while other staff witnessed Assistant Principal doing the same. *Interviews with Case Manager, General Education Teacher, and Special Education Teacher*.

46. Based on these facts, the CDE finds that District provided this accommodation consistent with the IEP during the 2025-2026 school year.

Time/Space During Emotional Dysregulation and Use of Calm-Down Corner

47. Another accommodation in Student's IEP required District staff to "[p]rovide time and space when [Student] becomes upset" and "allow for use of a calm down corner." *Exhibit A*, p. 8.

48. Every classroom within School contained a "calm down corner," which was a semi-private space within the room equipped with tools to help students regulate, such as fidget toys, books, and soft pillows. *Response*, p. 7; *Interview with Case Manager*. All students, including Student, were free to use these spaces as needed without asking permission. *Id.* In General Education Teacher's classroom, the calm-down corner was situated between two bookshelves and had the tools described. *Response*, p. 7.

49. Parents expressed concerns that Student never used the calm-down corner, according to Student's self-report; that he was never trained to utilize the calm-down corner, which prevented him from doing so; and that the semi-private nature of the space "restrict[ed] access further by publicizing his disability and not filtering the classroom noise." *Reply*, p. 3.

50. General Education Teacher credibly reported that he walked through the calm-down corner with each of his students, including Student, to ensure they were aware of the space and its use. *Interview with General Education Teacher*. According to General Education Teacher, Student used the calm-down corner the most out of all of his students, especially towards the end of the year, and Student considered it his "safe space." *Id.* Student was permitted to participate in class while seated in the corner to encourage reengagement, and General Education Teacher also allowed Student's friends to sit with him if he wanted company. *Id.*

51. General Education Teacher made a particular effort to build rapport with Student at the beginning of the year, and he talked to Student on multiple occasions while Student was regulated about how he could help during periods of dysregulation. *Id.* When Student became dysregulated, General Education Teacher would give him time and space to try and re-regulate, and he would speak to Student in a soft voice to periodically check in on him and remind him that he was welcome to return to class whenever he was ready. *Id.* He noted that their connection was strong enough that Student was able to effectively communicate via hand signals when he did not feel able to communicate verbally. *Id.* General Education Teacher also offered gentle observations and suggestions rather than directions. *Id.* In addition to using the calm-down corner, he also encouraged Student to take walks if he was upset or unable to focus. *Id.*; *Exhibit M*, p. 173; *see also Exhibit I*, p. 21.

52. When Student became dysregulated with Case Manager, she responded by allowing him to have time alone to regroup or process and then rejoin when he was ready. *Interview with Case Manager*. She would also sit with him and encourage him to talk through his emotions. *Id.* She also offered the use of her classroom as a safe space, especially during transition periods. *Id.*

53. Communications between Parents and School indicated that other School staff members offered Student time and space during instances of emotional dysregulation. *See, e.g.*, *Exhibit M*, pp. 173, 215.

54. Based on these facts, the CDE finds that District provided this accommodation consistent with the IEP during the 2025-2026 school year.

Use of Calm-Down Corner on May 20, 2026

55. Another accommodation in Student's IEP required District staff to "allow for use of a calm down corner." *Exhibit A*, p. 8.

56. Parents allege that District did not implement this accommodation when Student became dysregulated during an incident on May 20, 2026, at the end of the school day. *Complaint*, p. 5; *Interview with Parents*.

57. During rehearsals in the school cafeteria for fifth grade continuation, Student started kicking the student in front of him. *Exhibit G*, pp. 9, 12; *Interview with General Education Teacher*. General Education Teacher radioed Principal for assistance. *Exhibit G*, pp. 9, 12; *Interview with General Education Teacher*.

58. After Student pushed another student, Principal offered Student three choices of where to go: the "blue room," the school counselor's office, and Assistant Principal's office. *Exhibit G*, pp. 9, 12. Student had previously selected these locations as part of an "escape plan" for when he became dysregulated. *Exhibit P*, p. 3. Student rejected all three and indicated that the only thing he wanted was to pursue the other student. *Exhibit G*, pp. 9, 12.

59. Principal followed Student down the hallway and asked again if Student wanted to go to any of his "escape plan" locations. *Exhibit M*, p. 552. He also suggested going outside but stated that Student could not go to the other student or to his classroom. *Id.*; *see also Exhibit G*, pp. 9, 12. At that time, it would not have been practicable for Student to use the calm-down corner in his classroom because his peers had returned to the classroom, including the student he had pushed, and General Education Teacher locked the door for their safety. *Interview with General Education Teacher*. Student continued to exhibit destructive and/or physically aggressive behavior, refused solutions and regulation strategies suggested by Principal and his mother, and at one point stated that "the only solution [was] revenge" against the other student. *Exhibit M*, p. 552; *Exhibit G*, pp. 9, 12.

60. District staff did not explicitly offer Student the calm-down corner during the May 20 incident, because the incident occurred away from his classroom. *Exhibit G*, pp. 9, 12. Student could not return to his classroom for safety reasons, so District staff offered Student the use of the locations listed in his written "escape plan" to allow him to reregulate. *Interview with General Education Teacher*; *see also Exhibit G*, pp. 9, 12; *Exhibit P*, p. 3. These locations served the same purpose as the calm-down corner. *Exhibit P*, p. 3. Based on these facts, the CDE finds

that District provided this accommodation consistent with the IEP during the 2025-2026 school year.

G. Student's Behavioral Concerns at School Prior to March Reevaluation

61. Parents state that Student's social-emotional behavior was a major concern throughout the 2025-2026 school year, particularly Student's ability to regulate his emotions during peer interactions. *Interview with Parents*. District reports that Student had "several instances of conflict with other students" during the school year, "but none to the point that the School team was worried about larger issues." *Response*, p. 7. Instead, District viewed these incidents as "typical for fifth-grade students." *Id.*

62. Throughout the school year, Case Manager and General Education Teacher regularly communicated with Parents regarding Student's emotional status during the school day, particularly on days where Student showed signs of dysregulation. *See generally Exhibit M*. Case Manager also frequently checked in with Student when she saw him in the hallways and consistently reminded him that she was available to support him if he was experiencing difficulty with his emotions. *Interview with Case Manager*.

63. Student was involved in several incidents with his peers, the most notable of which were three minor physical altercations with members of the same group of boys in his grade on September 15, 2025, December 12, 2025, and February 6, 2026. *See Exhibit M*, pp. 8, 14, 20-23, 54-57. School documented these incidents and the disciplinary responses, which involved a warning on the first two occasions and a reconciliation meeting between Student and another boy that was supervised by Assistant Principal after the third. *Id.* Parents were promptly informed after each incident. *Id.*

64. After the second incident in December, Parents raised concerns that Student was being bullied due to his neurodivergent status. *Id.* at p. 21. Parents noted that, once Student becomes dysregulated, he did not "have the social-emotional skills to handle" conflict situations on his own, making him a target. *Id.* Parents also inquired whether his neurodevelopmental disorder was noted in the documentation of the incidents and whether he was receiving school support for social-emotional skills. *Id.*

65. Assistant Principal clarified School's bullying policy and noted that his profile was flagged as having an IEP, which should alert anyone who was unfamiliar with him that "there [was] more to be considered in the situations in regards to emotional regulation." *Id.* at p. 20. She also involved the school psychologist ("Psychologist") to discuss social-emotional support. *Id.*

66. After Case Manager informed Parents on December 18, 2025 of a discussion she had with Student during the day about handling his emotions, Assistant Principal reiterated School's "escalating consequence process" for bullying, offered to investigate the matter further, and named five School staff members who could talk to Student if needed. *Id.* at pp. 23-26.

67. Following winter break, Parents reiterated their concerns that Student was being bullied. *Id.* at p. 20. Psychologist responded on January 5, 2026 that Student "does not have designated mental health time on his IEP," but offered to perform weekly check-ins with Student for the remainder of the school year. *Id.* at p. 24. Psychologist also noted that "[i]t is a re evaluation year [sic] and we will be considering eligibility at this time so we will certainly consider his social and emotional development." *Id.* Assistant Principal followed up on January 15, 2026 to confirm that Parents did not have any additional questions. *Id.* at p. 31.

68. The Record does not reflect Parents' response to these communications; the next documented communication regarding the issue occurred on or around February 6, 2026, when the third altercation occurred. *See id.* at pp. 20-57. At that time, Parents again reiterated their concerns that Student was being bullied because of his neurodiversity and asked for clarity on what resources School could provide to Student, such as "counseling, social-emotional coaching, [or] other interventions." *Id.* at p. 55.

69. Assistant Principal responded by describing School's view of each incident and its response and offering a meeting between herself, Principal, and Parents to discuss their concerns. *Id.* at pp. 54-55. A meeting was ultimately held on February 17, 2026. *Id.* at p. 53.

70. Following the meeting, Assistant Principal emailed a summary of the meeting to the IEP Team. *Id.* at p. 58. She indicated that Parents had accepted Psychologist's offer of "doing a weekly [social emotional learning] check-in on his feelings and experiences with peers and how he's doing," which would be coordinated between Psychologist and School's counselor. *Id.* She stated that "Parents also thought it could be time used to prepare for middle school and how to handle kids that are being mean and how to escape/get help rather than react." *Id.*

71. Two more incidents occurred on March 9 and 11, 2026. *Exhibit G*, p. 7. The first, which involved Student verbally lashing out at a peer, did not result in any consequences. *Id.* The second, in which Student became upset and briefly placed his arm around a classmate's neck during a disagreement, resulted in Student spending lunch recess in the office. *Id.* Assistant Principal noted that Student was able to re-regulate after walking away from the situation and that he apologized "appropriately" to the classmate. *Id.*

H. March 2026 Reevaluation

72. Parents allege that District did not conduct a timely or comprehensive triennial reevaluation of Student in all areas of need, particularly in the areas of social-emotional behavior and occupational therapy ("OT"). *Complaint*, p. 4; *Interview with Parents*. The triennial reevaluation was due on or around April 25, 2026. *Id.*

73. Parents' concerns regarding social-emotional behavior are documented above. *See* FF #s 61-71. Parents' concerns regarding OT stem from private OT services Student previously received. *Interview with Parents.* During those services, the private occupational therapist worked with Student on social thinking and emotional regulation. *Id.* Parents also expressed

OT concerns regarding handwriting, which they believe could be a barrier to his ability to get work done, as well as interoception (perception of internal bodily sensations), which causes ongoing toileting issues. *Id.*

74. In a school setting, occupational therapists typically work with students in the areas of "self-help skills (such as feeding, dressing, or hygiene); fine, gross, and visual motor skills; sensory processing and visual processing skills; positioning, functional mobility, and transitions; functional communication through alternative methods; and adaptive devices/equipment and using educational tools/toys." *CDE Exhibit 1*.

75. School issued a Consent for Evaluation on January 19, 2026, indicating that District intended to evaluate Student in the areas of General Intelligence, Communicative Status, Academic Performance, Social and Emotional Status, and Health. *Exhibit E*, p. 4. Parents signed the Consent for Evaluation on January 20. *Id.*

76. On or around February 5, 2026, Parents had a conversation with Case Manager regarding the reevaluation. *Interviews with Parents and Case Manager.* Parents expressed that they wanted the IEP Team to consider Student's eligibility under the ASD category and wanted to ensure that his interactions with other children, inability to initiate tasks, withdrawals, and school refusals would be considered. *Interview with Parents.* Parents recalled that Case Manager reassured them that the team was evaluating for "everything." *Id.*

Relevant Assessments

77. District reevaluated Student during February and March 2026, with the reevaluation report completed on or around March 13, 2026. *Exhibit I*, pp. 1-16. Members of Student's IEP Team indicated that when they conducted this reevaluation, they had identified his areas of need as speech-language, reading, and social-emotional behavior. *Interviews with Case Manager and Special Education Teacher*.

78. Case Manager evaluated Student's communicative status using one formal assessment and a record review. *Exhibit I*, pp. 2-4.

79. Special Education Teacher evaluated Student's academic performance—including reading—using one formal assessment and a record review. *Id.* at pp. 4-8.

80. Psychologist evaluated Student's social-emotional status using a record review, an informal structured student interview, an analysis of Student's behavior contact log, an observation, the Beck Youth Inventory ("BYI-2"), and the Behavioral Assessment System for Children ("BASC-5"). *Id.* at pp. 8-14. The evaluation noted differences between the home and school setting and observed that the review of Student's documented behavior incidents at school "indicates that most of his challenges occur during peer conflicts in unstructured or less structured settings, such as recess/lunch and/or PE." *Id.* at p. 16. The evaluation also noted that Student had observable differences in the areas of "difficulty managing frustration

during peer interactions, emotional escalation when feeling provoked or criticized, reactive physical behavior during conflicts, [and] challenges using flexible problem-solving or communication strategies when upset." *Id.* at p. 16. The evaluation concluded that "support and guidance may be needed to help [Student] regulate his responses and use effective communication strategies during challenging social interactions." *Id.* at p. 16.

81. District did not conduct any assessments related to OT. *See generally id.* at pp. 1-16. District indicated that it did not do so because School staff's observations of him in the school setting did not suggest that he had any OT-related needs. *Interviews with Case Manager and Special Education Teacher*. Student's developmental history noted that historically, Student had received outside OT support "with a focus on social thinking and problem solving." *Id.* at p. 2. The history documents that, in the past, Parents had reported that Student had "ongoing difficulty with enuresis" (involuntary urination) and that they have "worked with a urologist to rule out physiological reasons." *Id.* at p. 2. Parents also indicated in one of the social-emotional assessments evaluating at-home behaviors that Student "has frequent bathroom accidents and will not stop what he is doing after knowing he's had an accident." *Id.* at p. 11.

I. March 18, 2026 Eligibility Determination

82. On March 13, 2026, Case Manager sent a copy of the reevaluation report to Parents to review prior to the eligibility determination scheduled for March 18. *Exhibit M*, p. 110.

83. On March 15, 2026, Parents responded with feedback regarding the revaluation. *Id.* at pp. 145-46. Parents advocated for Student's eligibility under ASD. *Id.* at p. 146. Parents also raised concerns that the reevaluation did not address Student's toileting difficulties. *Id.* at p. 145. Case Manager thanked Parents for the feedback and stated that their concerns would be taken into consideration and discussed during the meeting. *Id.* at p. 145.

84. A Multi-Disciplinary Team ("MDT") convened on March 18, 2026, to discuss the reevaluation and determine Student's eligibility. *See Exhibit F*, pp. 1-2. Parents, Case Manager, Special Education Teacher, General Education Teacher, Psychologist, and Principal attended the meeting. *Id.* at p. 2.

85. Although Parents and School staff agreed that Student required some social-emotional support, especially as he transitioned to middle school, they disagreed on the degree of impact his behaviors had on his ability to access his education. *Id.*; *Interviews with Parents, Case Manager, General Education Teacher, and Special Education Teacher*. Parents believed that it was a significant factor for Student, while School staff indicated that his emotional dysregulation typically did not occur during classroom instruction, that school refusals and peer conflicts were infrequent, and that his ability to self-regulate had improved. *Interviews with Parents, Case Manager, General Education Teacher, and Special Education Teacher*.

86. District proposed adding social-emotional support to Student's IEP for the upcoming year. *Id.* Due to Parents' past experience with Student's private OT—where Student received social-

emotional support—Parents inquired about Student receiving OT services and expressed confusion when Case Manager and others explained that those services would be provided by School's mental health team. *Id.*

87. Parents also disagreed with the MDT's decision that Student did not qualify under the ASD disability category. *Id.*; *see also Exhibit F*, p. 1-2. District indicated that the MDT did not believe he qualified under the ASD disability category due to the 2023 Private Evaluation, as well as observations of Student by teachers and other service providers. *Exhibit F*, pp. 1-2; *Interviews with Case Manager, General Education Teacher, and Special Education Teacher*.

88. Lastly, Parents reported during the meeting that Student "continues to wet his pants at school and at home at least weekly." *Exhibit F*, p. 1. General Education Teacher indicated this was the first time that he learned of Student's toileting issues, and he did not personally observe any instances of Student soiling himself until the end of the school year. *Interview with General Education Teacher*. Student's toileting issues were not documented in the April 9, 2025 IEP, although Student had an accommodation allowing Student unlimited bathroom access. *See generally Exhibit A*, pp. 1-14. While Parents expressed a concern during the investigation that Student was being bullied because he was soiling his pants, the Record does not reveal any communications between Parents and School regarding toileting concerns during the 2025-2026 school year. *Interview with Parents*; *see generally Exhibit M*.

89. In response to Parents' concerns, District agreed to conduct additional assessments and, as a result, did not determine Student's eligibility at the March 18 meeting. *Exhibit F*, p. 2.

90. Following the meeting, Case Manager spoke with Parents on the phone about the additional assessments, including OT assessments. *Interview with Case Manager*. Case Manager explained that conducting additional assessments would delay completion of the reevaluation and the development of Student's IEP. *Id.* Parents verbally acknowledged their understanding. *Id.*

91. On or around March 20, 2026, District issued a PWN detailing the decision to conduct additional assessments, noting that the MDT "proposed to postpone the development of the IEP until the additional components of the evaluation were complete." *Exhibit D*, pp. 1-2. That same day, District sent Parents an updated Consent for Revaluation, indicating that District would conduct additional "[e]valuation[s] related to [Student]'s engagement in repetitive activities, stereotype movements, and/or behavioral flexibility." *Exhibit E*, p. 10.

92. The PWN stated that "based on parent concern for an educational diagnosis of Autism and the possibility of being eligible for Occupational Therapy services, the team agreed to get concent [sic] for an evaluation and add motor and ASD for a more comprehensive evaluation." *Id.* at p. 11. The PWN also indicated that the current services from Student's April 9, 2025 IEP would remain in place while evaluations were conducted. *Id.* Lastly, it stated that "[t]he IEP review date will be late in order to avoid writing two back to back IEPs" and that

"Parents were in agreement with this decision." *Id.* Parents signed the Prior Notice & Consent for Reevaluation form on March 22, 2026 and March 29, 2026.

93. On June 16, 2026, the PWN was amended to include the following:

> In reference to the delayed IEP, the team proposed to postpone the development of an IEP until the additional components of the evaluation were complete. The family shared this was only option provided and so they agreed. The team could have also considered holding the IEP meeting within the timeframe and then having an additional IEP after the second evaluation was complete.

Exhibit D, p. 1.

J. Student's School Behavior Changes

94. Meanwhile, School staff reported major changes in Student's school behavior and attendance following the return from spring break at the end of March 2026. *Interviews with Case Manager, General Education Teacher, and Special Education Teacher*.

95. Between April 1 and May 20, 2026, Student missed nine days of school due to school refusal, compared to three days during the first eight months of the school year. *Exhibit H*, p. 1.

96. Student's dysregulation and aggression also increased in frequency and severity, and he began physically striking staff members. *Interviews with Case Manager and General Education Teacher*. Student became dysregulated more quickly and intensely, and the tactics that General Education Teacher had been utilizing throughout the year were no longer effective. *Interview with General Education Teacher*. Once Student became dysregulated, it was "less of a shutdown" and "more of an aggressiveness," wherein he would physically lash out and pursue other students "relentlessly" over perceived slights. *Id.* In those situations, General Education Teacher positioned himself between Student and the other student. *Id.*

97. Student's behavior resulted in two days of in-school suspension following an incident on April 6, 2026 in which he hit, kicked, and chased a classmate and struck both Assistant Principal and Principal when they tried to intervene; one day of out-of-school suspension and the implementation of a Safety Plan following an incident on April 16, 2026 in which he threw objects at classmates and struck a teacher before eloping from the school; and two days of out-of-school suspension and the development and implementation of a Behavior Intervention Plan ("BIP") by his IEP team following the incident on May 20, 2026. *Exhibit G*, pp. 8-12.

98. The changes in Student's presentation at School were such that members of Student's IEP Team determined that Student's special education needs were different following his return from spring break than they were at the time of the March reevaluation. *Interviews with Case Manager and Special Education Teacher*.

K. Additional Assessments

99. In April and May 2026, District completed several additional assessments regarding Student's social-emotional needs, ASD, and OT. *See Exhibit I*, pp. 17-65.

100. The results of the social-emotional and ASD assessments reflected similar observations to those included in the March reevaluation, although with higher risk levels than were previously indicated by school staff. *Id.* at pp. 17-30, 35-37, 48-50, and 56-61. District also conducted an FBA, which observed that his behaviors of refusal and aggression "are most likely to occur during transitions, arrival, stimulating or unstructured activities, and following previous behavioral incidents." *Id.* at p. 61. Additional assessments noted that he "struggled with emotional regulation, particularly during peer conflict or when feeling misunderstood, and may become inflexible." *Id.* at p. 63. At this time, surveys completed by both Parents and teachers indicated "significant emotional and behavioral needs, particularly in the areas of emotional regulation and interpersonal functioning, which are likely impacting [Student]'s performance in the school setting." *Id.*

101. The OT assessments revealed that Student's handwriting and typing skills were at grade level. *Id.* at p. 63. Assessments of Student's interoception indicated that Student "demonstrates strengths in the areas of emotional awareness and self-regulation, while his weaknesses include body listening," concluding that Student "knows and understands emotions and when he is dysregulated, but he may have a high threshold for the body cues that give him early signs." *Id.* at p. 64.

102. District completed the reevaluation on May 19, 2026. *See id.* at pp. 31-65. That same day, a MDT reconvened to review the updated reevaluation and determine Student's eligibility. *Exhibit F*, pp. 7-9. Ultimately, the MDT found Student eligible under ASD, with a secondary disability of SLI. *Exhibit A*, p. 33.

L. Student's Progress

103. Student made progress on all three of his annual IEP goals during the 2025-2026 school year. *Exhibit J*, pp. 18-19.

104. Student's IEP included a speech-language goal targeting the articulation of five R variations. *See Exhibit A*, pp. 6-7. This goal sought to improve his production of those variations "in all position of words during oral reading activities with 80% accuracy." *Id.* at p. 7. He met this goal for four out of five of the targeted variations by the end of the first semester. *Exhibit J* at p. 18. By the end of the second semester, he continued to improve the fifth variation across speech tasks and other testing materials. *Id.* Case Manager indicated he made significant progress and, in her view, met his goal overall. *Interview with Case Manager*.

105. His IEP also included two reading goals. *See Exhibit A*, pp. 7-8. The first goal targeted the application of "the five rules of syllabication," particularly to read multi-syllable words with

"any of the six syllable types." *Id.* at p. 7. The goal required that he read these words "with at least 80% accuracy over three consecutive trials." *Id.* During the first semester, Student achieved 70% accuracy in mixed-syllable words, with "good improvement" demonstrated with suffixes and prefixes. *Exhibit J*, pp. 18-19. In the second semester, he achieved 60% accuracy while reading words in isolation, with fluctuating accuracy when dealing with mixed syllable types. *Id.* at p. 18. Special Education Teacher indicated that Student had made very steady progress on this goal throughout the year. *Interview with Special Education Teacher*.

106. Student's second reading goal targeted accuracy when reading fourth grade level texts. *Exhibit A*, p. 8. The goal sought to have Student reading a fourth-grade level text with "at least 100 correct words per minute" and "at least 97% accuracy over three consecutive trials." *Id.* In the first semester, Student achieved 66 correct words per minute ("CWPM") with 100% accuracy, and in the second semester he ranged between 87 and 107 CWPM with approximately 98% accuracy. *Exhibit J*, p. 19. Special Education Teacher indicated that although he was scoring just shy of the goal, he had made significant progress. *Interview with Special Education Teacher*. She also stated that he was performing "equal to or better than" his fifth grade peers when reading fifth grade level texts in the classroom. *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 IEP, as required by 34 C.F.R. § 300.323(d). District also implemented Student's IEP, as required by 34 C.F.R. § 323(c). District complied with the IDEA.

I. Legal Requirements: IEP Implementation

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 2.19. 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 Cty. 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).

II. IEP Accessibility to Teachers and Others

A school district must ensure that each regular education teacher, special education teacher, related service 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, District staff responsible for implementing Student's IEP were aware of their responsibilities and had access to information regarding Student's IEP. Case Manager met with all of Student's teachers to review his IEP and their responsibilities. (FF # 17.) Both Teacher and Special Education Teacher, who went through this process, demonstrated familiarity with Student's IEP and accurately described a detailed understanding of Student's services and accommodations. (FF #s 18-19.) Based on these facts, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

III. IEP Implementation: Specialized Instruction & Accommodations

In implementing an IEP, a school district must provide special education and related services "in conformity with" the IEP. 34 C.F.R. §§ 300.17, 300.324(c)(2); *see Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 821 (9th Cir. 2007). Not providing special education and related services in conformity with an IEP can result in the denial of FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.21(4). However, "there is no statutory requirement of perfect adherence to the IEP." *Van Duyn*, 502 F.3d at 821. In other words, not every shortfall in services between those required by an IEP and those provided will result in a denial of FAPE. *Id.* To result in a denial of FAPE, there must be "no 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. District of Columbia*, 64 IDLER 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 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. by N.J.J.*, 927 F.3d at 1214. 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 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 and accommodations required by the IEP, and (2) if so, did the shortfall amount to a material failure to implement the IEP and thus a denial of FAPE?

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

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

Here, Student's IEP required 30 minutes per week of direct speech-language services provided outside of the general education classroom. (FF # 15.) In total, Student received 589 of the 900 minutes of speech-language services required during the 2025-2026 school year. (FF # 24.) Accordingly, the CDE finds that there was a shortfall of 311 minutes between the speech-language services required by the IEP and those made available to Student.

Student's IEP also required that he receive 120 minutes weekly of small group instruction in reading outside of the general education classroom. (FF # 15.) The Record shows that Student received 3,360 of the 4,200 minutes of specialized instruction required during the 2025-2026 school year. (FF #s 26-27.) Student was absent or suspended for 14 days on which he would have received 420 minutes of services. (FF # 28.) Accordingly, the CDE finds that there was a shortfall of 420 minutes between the specialized reading instruction required by the IEP and those made available to Student.

As for the three accommodations identified by Parents, the Record shows that District implemented all three accommodations consistent with Student's IEP. (FF #s 46, 54, 60.) Accordingly, the CDE finds that there was not a shortfall in the accommodations required by the IEP and those made available to Student.

B. *Prong 2: Was the Shortfall Material?*

Because there was a shortfall in the provision of services to Student required by the IEP, the CDE must next determine whether this shortfall represents a material failure to implement the IEP such that Student was denied FAPE.

Here, despite the shortfall, Student received the majority of the service minutes in speech-language and reading required by his IEP. (FF #s 24, 26-27.) And, although the total amount of services missed is not insignificant, the missed services were spread across the school year,

reducing the overall impact on Student. (FF #s 23, 26-28.) Additionally, with regard to reading services in particular, approximately half of the minutes were missed due to Student's attendance rather than any lack of provision by District. (FF # 28.)

Despite the shortfall in services, Student made progress on all three of his IEP goals. (FF # 103.) In speech-language, he met his goal on four out of the five targeted sounds by the end of the first semester and continued to improve the final targeted sound by the end of the second semester. (FF # 104.) Although his two reading goals were affected by inconsistent testing by Student, he achieved similar progress on both goals, and he was performing equal to or better than his peers in the classroom. (FF #s 105-106.) Both Case Manager and Special Education Teacher indicated that they were satisfied with Student's progress throughout the year. (FF #s 104-106.) As such, the Record does not evidence that the shortfall materially impacted Student's ability to receive a FAPE.

For these reasons, the CDE finds and concludes that the shortfall was not material, and thus District implemented Student's IEP, as required by 34 C.F.R. § 300.323(c)(2). *See Van Duyn*, 502 F.3d at 821 ("There is no statutory requirement of perfect adherence to the IEP.").

Finally, though it did not factor into the materiality analysis, the CDE acknowledges that District addressed the shortfall on or around May 26, 2026, before Parents filed the Complaint. (FF # 31-32.) District offered and provided four hours of compensatory services in both speech-language services and specialized reading instruction. (FF # 32.) These compensatory services were delivered one-on-one with Student and the provider over the summer, and District intentionally offered the delivery in this manner to maximize the benefit to Student. (*Id.*) This action by District mitigated the impact of the shortfall on Student.

Conclusion to Allegation No. 2: District did not conduct a timely triennial reevaluation of Student, as required by 34 C.F.R. § 300.303. No denial of FAPE occurred.

Parents allege that District did not complete a timely triennial evaluation on or before April 25, 2026. (FF # 75.)

I. Legal Requirements: Triennial Reevaluation

A school district must ensure that a reevaluation of each child with a disability is conducted at least once every three years, unless the district and parent agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303.

II. Timeliness of Student's Reevaluation

Here, the IDEA obligated District to complete Student's triennial reevaluation by April 25, 2026. (FF # 9.). District initially completed Student's reevaluation on March 13, 2026, well before the April deadline. (FF # 77.) However, during the eligibility meeting, District agreed to conduct additional assessments based on concerns Parents raised about Student's eligibility under ASD

and his need for OT. (FF #s 85-89, 92.) As a result, the MDT did not determine Student's eligibility. (FF # 89.)

Here, but for Parents' request, District would have timely completed the triennial. (*See* FF #s 77, 84.) Parents' concerns were the catalyst for the additional assessments and the resulting delay in Student's reevaluation. (FF #s 89-92.) Parents provided written consent to the additional assessments in late March 2026 and that consent form acknowledged that the additional evaluations would delay completion of Student's reevaluation. (FF # 92.)

However, Parents' consent does not excuse District's noncompliance with the IDEA. Ultimately, Student's reevaluation, including the additional assessments, was not completed until May 19, 2026, approximately three weeks after the regulatory deadline. (FF # 102.) At times, school districts are "confronted with the situation of complying with one procedural requirement of the IDEA or another." *Doug C. v. Hawaii Dep't. of Educ.*, 720 F.3d 1038, 1046 (9th Cir. 2013). In those situations, the district "must make a reasonable determination of which course of action promotes the purposes of the IDEA and is least likely to result in the denial of a FAPE." *Id.* Following Parents' request for additional assessments, District made the reasonable determination to prioritize parent participation and the comprehensiveness of the reevaluation over strict adherence to the triennial deadline, which resulted in the triennial being completed outside of the three-year period. For these reasons, the CDE finds and concludes that District did not comply with 34 C.F.R. § 300.303.

III. Procedural Noncompliance

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 v. Acad. Sch. Dist. No. 20*, 538 F.3d 1306, 1313 (10th Cir. 2008).

Here, the CDE finds that District's procedural noncompliance did not result in a denial of FAPE. The brief delay in completing Student's reevaluation did not impede his right to a FAPE or deprive him of an education benefit. During the delay, Student's IEP remained in effect, and he continued to receive the services and supports required by his IEP. (FF # 92.) The noncompliance also did not significantly impede Parents' ability to participate in the decision-making process. Indeed, the delay resulted from concerns Parents expressed during the eligibility meeting. (FF #s 85-89, 92.) Instead of limiting Parents' ability to participate, the additional assessments enhanced their participation in the decision-making process by ensuring their concerns were addressed and they had the information they wanted to consider Student's eligibility and his needs. For these reasons, the CDE finds and concludes this noncompliance did not result in the denial of FAPE.

<u>Conclusion to Allegation No. 3</u>: District conducted a comprehensive evaluation of Student, consistent with 34 C.F.R. § 300.304(c)(4). District complied with the IDEA.

Parents allege that District did not comprehensively evaluate Student by April 25, 2026. (FF # 71.) Specifically, Parents assert that District did not adequately assess Student in the areas of social-emotional behavior and occupational therapy. *Id.*

I. Legal Requirements: Evaluation Procedures and Additional Requirements

The IDEA requires an evaluation to assess students "in all areas related to the suspected disability." 34 C.F.R. § 300.304(c)(4). This includes social and emotional status, if appropriate. *Id.* The evaluation itself must 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 with which the child has been identified." *Id.* at § 300.304(c)(6). In conducting the evaluation, school districts must "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 make progress in the general education curriculum." *Id.* § 300.304(b)(1)(ii).

The absence of a particular behavioral assessment, such as an FBA, does not, by itself, establish noncompliance with IDEA where there is "evidence that the student's interfering behaviors were being adequately managed." *L.J.B. v. N. Rockland Cent. Sch. Dist.*, 660 F. Supp. 3d 235, 267 (S.D.N.Y. 2023); *see also R.K. v. N.Y.C. Dep't of Educ.*, No. 09-CV-478, 2011 WL 1131492, at *18 (E.D.N.Y. Jan. 21, 2011) (overturning SRO decision that FBA was not required because decision was based on testimony that student's interfering behaviors were "not unusual," whereas "the proper inquiry in determining the necessity of an FBA is whether the behavior impedes learning, not whether the behavior is atypical").

II. Comprehensiveness of Student's Reevaluation

Here, District completed a reevaluation of Student around March 13, 2026, including an evaluation of Student's social-emotional behaviors. (FF #s 77, 80.) This evaluation was conducted using six assessments or tools, including the BYI-2 and BASC-5. (FF # 80). These assessments concluded that Student struggled with emotional regulation, particularly in peer interactions that occurred in unstructured or less structured settings. (*Id.*) District agreed that social-emotional services were likely needed to support Student, especially given his upcoming transition to middle school, and District offered such services during the March 18 meeting. (FF #s 80, 85.)

Although District did not conduct any OT assessments, the Record does not show that District had any reason to suspect that this was an area of need at any point during the 2025-2026 school year. (FF #s 85, 92.) District did not list occupational therapy/motor skills as an area to be evaluated on the consent form signed by Parents on January 20, 2026, and Parents did not raise concerns regarding the need for such an assessment until the March 18 eligibility meeting. (FF #s

75, 86, 92) The Record suggests that Parents' request for this assessment was primarily motivated by their previous experience with a private OT who worked with Student on social-emotional issues, which led them to an inaccurate conclusion that OT would be the appropriate assessment area for such concerns. (FF #s 73, 86.)

Similarly, the Record does not show that Parents' concerns regarding Student's handwriting or interoception/toileting during the 2025-2026 school year were communicated to District prior to the March 18, 2026 meeting. (FF # 88.) Such concerns were also not documented in Student's April 9, 2025 IEP. (*Id.*) General Education Teacher, who spent a significant portion of each day with Student, was unaware of Student's toileting issues until that meeting, and stated that he did not observe any incidents of Student soiling his pants until the end of the school year. (*Id.*)

Lastly, the Record shows that District was aware of the concerns regarding Student's social-emotional behavior and actively providing additional support for Student during the March 2026 reevaluation. (FF #s 61-71, 85-86, 97.) School staff implemented these measures even though they did not consider Student's emotional dysregulation to be significantly impacting his ability to participate in the classroom prior to the March 18 meeting, as the incidents were infrequent and did not occur during class time. (FF # 85.) This determination changed when Student's attendance and school behavior worsened after the initial reevaluation was completed. (FF #s 94-98.) District responded by creating and implementing a Safety Plan and a BIP. (FF # 97.)

Even though the District may not have used every assessment available, District's evaluation assessed Student in all areas related to the suspected disability at the time of the assessment. (FF #s 75, 77-80). Thus, the CDE finds and concludes that District complied with 34 C.F.R. § 300.304(c)(4).

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

Pursuant to its general supervisory authority, CDE must consider and ensure the appropriate future provision of services for all IDEA-eligible students in 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 SEA's "exercise of its general supervision responsibilities" and serve as a "powerful tool to identify and correct noncompliance with Part B." *Assistance to States for the Education of Children with Disability and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

Here, the Record does not demonstrate systemic concerns regarding the timeliness of reevaluations. Before Parents' request for additional assessments, District was on track to complete Student's reevaluation well in advance of the deadline in 34 C.F.R. § 300.303. The noncompliance resulted from District juggling competing IDEA requirements and wanting to ensure it addressed Parents' concerns. Therefore, the CDE finds and concludes that District's

noncompliance is not systemic and is not likely to impact the future provision of services for all IDEA-eligible students in District.

REMEDIES

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

1. Conducting a timely triennial reevaluation of Student, as required by 34 C.F.R. § 300.303(b).

To demonstrate compliance, District is ORDERED to take the following action:

1. Final Decision Review

a. Special Education Coordinator and Case Manager must read this decision in its entirety, as well as review the requirements of 34 C.F.R. § 300.303, by **October 16, 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 **October 21, 2026**.

CDE Special Education Monitoring and Technical Assistance Consultant will contact District with specific instructions for securely submitting the documentation detailed above. 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 ("SCO").

Dated this 16th day of September, 2026.



Erin Vanek
State Complaints Officer

APPENDIX

Complaint, pages 4-5

- Exhibit 1: Emails

Response, pages 6-7

- Exhibit A: IEPs
- Exhibit D: PWNs
- Exhibit E: Requests for Consent
- Exhibit F: IEP Meeting Documents
- Exhibit G: Disciplinary History
- Exhibit H: Schedule, Grades, Attendance
- Exhibit I: Evaluations
- Exhibit J: Service Logs
- Exhibit J Supplement: Reading Service Logs
- Exhibit K: Calendar
- Exhibit M: Correspondence
- Exhibit P: Safety Plan

Reply, page 3

Telephone Interviews

- Parents: August 7 and 11, 2026
- Special Education Coordinator: August 10, 2026
- Case Manager: August 10, 2026
- Special Education Teacher: August 10, 2026
- General Education Teacher: August 10, 2026

CDE Exhibits

- CDE Exhibit 1: Occupational Therapy (OT) – Colorado Department of Education