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

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# State Complaint SC2026-617
# Littleton Public Schools

# DECISION

## INTRODUCTION

On July 23, 2026, an individual ("Complainant") filed a state complaint ("Complaint") on behalf of a student ("Student") currently identified as a child with a disability under the Individuals with Disabilities Education Act ("IDEA")[1] against Littleton Public Schools (Arapahoe 6, Littleton) ("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 July 23, 2025. Information prior to that date may be considered to fully investigate all allegations.

## SUMMARY OF COMPLAINT ALLEGATIONS

The Complaint raises the following allegation 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") from May 18, 2026 to present 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 instruction services 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. Student is ten years old and currently participates in a private applied behavioral therapy program ("ABA Program"). *Interview with Complainant*. From the start of the 2025-2026 school year through April 2026, Student attended, at District expense, a Colorado-approved facility school ("Facility School") located outside of District. *Exhibit 1*, p. 5; *Exhibit I*, p. 1.

2. Student enjoys playing with kinetic sand and other tactile materials and likes helping others. *Exhibit 1*, p. 7. He lives with his legal guardians. *Interview with Complainant*.

3. This investigation concerns the implementation of Student's IEP. *Complaint, p. 4*. Specifically, the Complaint asserted that Student has not received the specially designed instruction ("SDI") described in his IEP since moving from Facility School to ABA Program. *Complaint*, pp. 4-5.

### B. Student's IEP

4. The IEP at issue was dated February 11, 2026 (the "IEP") and was developed in February 2026 while Student was attending Facility School. *Exhibit 1*, pp. 7-32; *Interview with Complainant and District's Assistant Director of Special Education ("Assistant Director").*

5. The IEP indicated Student would "be provided specially designed instruction in a highly structured therapeutic treatment school where affective needs instruction is provided throughout the day." *Exhibit 1*, p. 15. The IEP required Student to receive 2,037 minutes of SDI per week. *Id*. pp. 15-16.

6. Based on Student's instructional and therapeutic needs, the IEP specified that Student's recommended placement in the least restrictive environment was a separate school. *Id*. at p. 18. The IEP Team determined that he would continue to attend Facility School. *Id*. at p. 5.

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

### C. Student's Withdrawal from Facility School

7. On March 19, 2026, Student's legal guardian ("Parent") emailed Assistant Director stating that Student had been accepted into ABA Program and would begin attending on April 6, 2026. *Exhibit I*, p. 1. Both District and Complainant described Student's move from Facility School to ABA Program as a unilateral decision made by Parent outside of the IEP Team process. *Response*, p. 5 ("[Parent] chose to place the Student unilaterally at [ABA Program]"); *Reply*, p. 1 ("[…] led [Parent] to decide [Student] required an even more intensive alternative setting than what [District] initially decided.")

8. Student began attending ABA Program on April 6, 2026, and did not return to Facility School. *Exhibit I*, p. 1. Though ABA Program provides intensive behavioral services, it does not directly provide academic instruction. *Reply*, p. 4.

9. Following Parent's withdrawal of Student from Facility School, District continued to fund Student's attendance at Facility School through the end of the 2025-2026 school year. *Exhibit 4*, p. 1. This left the IEP's offer of FAPE available if Parent chose to access it. *Id*.

10. Over the remainder of the school year, District offered to provide Student some tutoring while he attended ABA Program. *Reply*, pp. 2-3. Complainant now contends District owed Student the full benefit of his IEP while he was in this "interim educational setting." *Id.* at p. 3.

11. During the summer between the 2025-2026 school year and the 2026-2027 school year, Student moved to another Colorado school district, where he continues to attend ABA Program. *Interview with Complainant*.

## CONCLUSIONS OF LAW

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

**Conclusion to Allegation No. 1: District had no obligation to implement Student's IEP following Parent's unilateral withdrawal of Student from Facility School on April 6, 2026. District complied with the IDEA.**

Complainant alleged District did not provide the SDI contemplated by Student's IEP following his move from Facility School to ABA Program on April 6, 2026. (FF # 3.)

### I. 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.

392, 399 (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, including accommodations, are made available to the child in accordance with the IEP. 34 C.F.R. §§ 300.323(d), 300.323(c)(2).

A school district can be required to implement only so much of the IEP as it reasonably can within the constraints imposed by a parent's actions. *Montgomery County Pub. Sch*., 111 LRP 54915, (SEA MD 2011) (finding that a district provided a FAPE by implementing as much of the IEP as possible despite a parent's restriction on who could administer the IEP's services). Indeed, "parents do not have a right to compel a school district to provide a specific program or employ a specific methodology in educating a student, even if it is the best possible education for their child, as the district is not required to maximize educational benefits." *M.S. by and through Emily S. v. Downingtown Area Sch. Dist.*, 2022 WL 16531962 at 12 (E.D. Pa. 10/28/22).

If a parent's refusal to one part of an IEP means that the remaining portions of the IEP no longer provide a FAPE, then the district is not liable for not providing a FAPE. *I.L. through Taylor v. Knox County Bd. of Educ.,* 257 F. Supp. 3d 946, 981-84 (E.D. Tenn. 2017), *aff'd on other grounds sub nom. I.L. by & through Taylor v. Tenn. Dep't of Educ.,* 739 F. App'x 319 (6th Cir. 2018). "[P]arents retain the right to refuse consent to an offer of FAPE. Accordingly, it would prove impossibly onerous to require school districts to somehow implement a rejected IEP and provide a FAPE in the face of such refusal." *I.R. ex rel. E.N. v. Los Angeles Unified Sch. Dist.,* 805 F.3d 1164, 1170 (9th Cir. 2015). In past state complaint investigations, the CDE has acknowledged the impact a parent's actions can have on a district's obligations under IDEA. *See, e.g.*, *Boulder Valley Sch. Dist. RE-2*, 124 LRP 34351 (SEA CO 2023) (finding that the district was not obligated to provide IEP services designed for a full day of school after parent removed the student to a private school for half of the school day); and *Cherry Creek Sch. Dist.*, 126 LRP 25281 (SEA CO 2026) (finding that because the parent removed student from school to attend a private ABA program, the district was not required to review and revise the IEP in light of lack of expected progress toward annual goals).

## II. Parent's Rejection of District's Offer of FAPE

The CDE must determine whether District made special education and related services available to Student consistent with Student's IEP and as required by 34 C.F.R. § 300.323(c)(2), (d) from April 6, 2026 to present. In doing so, the CDE recognizes that District can be required to implement only so much of the IEP as it can within the constraints imposed by Parent's actions.

Here, Student's IEP Team convened in February 2026 and determined that the least restrictive environment appropriate for Student's needs was a separate school placement at Facility School. (FF #s 5-6.) On March 19, 2026, Parent, operating unilaterally and outside of the context of an IEP meeting, informed District that she would be withdrawing Student from Facility School and enrolling him in the private ABA Program. (FF # 7.) District continued funding Student's tuition at

Facility School, but, beginning April 6, 2026, Student no longer attended or received services at Facility School. (FF # 8-9.)

Accordingly, the CDE finds that Parent rejected District's offer of FAPE when she unilaterally withdrew Student from the placement determined by his IEP Team and written in his IEP. Although District continued to make available a FAPE at Facility School, District had no obligation to provide the IEP's services at the private ABA Program of Parent's choosing. For these reasons, the CDE finds and concludes that District was not obligated to implement Student's IEP under 34 C.F.R. § 300.323(c), (d) from April 6, 2026 to present. District complied with the IDEA.

## REMEDIES

The CDE concludes that District complied with IDEA. Accordingly, no remedies are ordered.

## CONCLUSION

The Decision of the CDE is final and is not subject to appeal. ECEA Rule 7.06(3); *CDE's State Complaint Procedures*, Section E, ¶ 2. If a party disagrees with this Decision, that party may file a Due Process Complaint if the law permits a due process hearing on the issue in dispute. ECEA Rule 7.06(3); *CDE's State Complaint Procedures*, Section E, ¶ 2; 34 C.F.R. § 300.507(a); 71 Fed. Reg. 46,607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer ("SCO").

Dated this 21st day of September, 2026.

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Nick Butler
Senior State Complaints Officer

# APPENDIX

**Complaint, pages 1-8**

- Exhibit 1: Various documents related to the Complaint

**Response, pages 1-6**

- Exhibit A: IEPs
- Exhibit E: Schedule, Grades, Attendance
- Exhibit F: Progress Monitoring
- Exhibit G: Calendar
- Exhibit H: District Policies and Procedures
- Exhibit I: Correspondence
- Exhibit J: Persons with Knowledge
- Exhibit K: Service Logs for Tutoring Services

**Reply, pages 1-6**

- Exhibit 2: Student's IEP
- Exhibit 3: Correspondence between Complainant and District
- Exhibit 4: Correspondence between Complainant and District

**Telephone Interviews**

- Complainant: September 1, 2026
- Assistant Director: August 27, 2026