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

State Complaint SC2026-606
Roaring Fork School District

DECISION

INTRODUCTION

On June 6, 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 Roaring Fork School District ("District"). The Colorado Department of Education ("CDE") determined that the Complaint identified six 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 June 6, 2025. Information prior to June 6, 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] The IDEA is codified at 20 U.S.C. § 1400 *et seq*. The corresponding IDEA regulations are found at 34 C.F.R. § 300.1 *et seq*. The Exceptional Children's Education Act ("ECEA") governs IDEA implementation in Colorado.

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

1. District did not conduct a comprehensive reevaluation of Student in or around March 2026, because it:

    a. Did not use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about Student, including information provided by Parents, as required by 34 C.F.R. § 300.304(b)(1); and

    b. Did not assess Student in all areas related to the suspected disability—specifically, written expression, executive functioning, behavior, and social-emotional needs—as required by 34 C.F.R. § 300.304(c)(4).

2. District did not provide an Independent Educational Evaluation ("IEE") at public expense without unnecessary delay or file a due process complaint to show District's evaluation was appropriate following Parents' request for an IEE on March 26, 2026, as required by 34 C.F.R. § 300.502(b)(1)-(2).

3. District improperly imposed conditions or timelines related to obtaining an IEE at public expense following Parents' request for an IEE on March 26, 2026, as prohibited by 34 C.F.R. § 300.502(e).

4. District did not consider the IEE in decisions regarding Student's FAPE, specifically during a meeting on or around May 14, 2026, as required by 34 C.F.R. § 300.502(c)(1).

5. District did not properly determine Student's eligibility and educational need at a meeting on or around May 14, 2026, because it did not ensure a group of qualified professionals and Parents—specifically, Parents—determined whether Student is a child with a disability, as required by 34 C.F.R. § 300.306(a)(1) and ECEA Rule 4.02(6)(b).

6. District did not review and, as appropriate, revise Student's Individualized Education Program ("IEP") from May 2026 to present to address information about the child provided to, or by, the Parents, the child's anticipated needs, and other matters, as required by 34 C.F.R. § 300.324(b)(1)(ii).

FINDINGS OF FACT

After thorough and careful analysis of the entire Record,[3] the CDE makes the following findings of fact ("FF"):

A. Background

1. Student attended third grade at a District elementary school ("School") during the 2025-2026 school year. *Complaint*, p. 1. Student currently qualifies for special education under the

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

disability categories of Autism Spectrum Disorder ("ASD") and Other Health Impairment ("OHI"). *Response*, p. 1.

2. Student is an eloquent child with an extensive vocabulary who loves Pokémon and science. *Interviews with Parent and Special Education Coordinator ("Coordinator").* At school, he struggles with self-regulating and navigating interpersonal relationships. *Interviews with Student's special education teacher and case manager ("Case Manager") and School Principal ("Principal").* Additionally, while at school, Student has made verbal expressions of self-harm. *Interview with Parent*; *Response,* p. 4.

B. District Policies, Practices, and Procedures

3. To ensure compliance with the IDEA, District maintains a comprehensive Special Education Procedural Manual ("District Procedures"), as well as guidelines for IEEs ("District Guidelines"). *Exhibit M*, pp. 15-135.

4. District Procedures outline requirements for special education evaluations, explaining that the evaluation process begins with "a review of existing data related to the child's performance and results of any screening that is conducted." *Exhibit M*, p. 25. The evaluation must also be sufficient to appropriately identify all the student's special education and related service needs and include areas linked to concern. *Id*. In conducting the evaluation, the District "must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent." *Id.* at p. 38. After the evaluation has been completed, District must document the evaluation in an evaluation report and provide the report to the parents. *Id.* at pp. 39, 41.

5. If it is determined that a student qualifies for special education, they are reevaluated approximately every three years. *Interview with Special Education Director ("Director").* If District and the parents agree that a reevaluation is necessary sooner than every three years, a reevaluation may be conducted if it is not occurring more than once a year. *Exhibit M*, p. 45. Before a reevaluation may be conducted, District must obtain and document parental consent for the reevaluation. *Id.* at p. 121. Parents are invited to participate in initial evaluations and reevaluations. *Id.* at p. 44.

6. During the reevaluation, the District looks at a student's current body of evidence, along with any private evaluations, to determine whether the student qualifies under the same disability category. *Id*. This determination often requires gathering new baselines for any areas of concern; however, with reevaluations it is presumed that the initial eligibility process was valid and that the disability remains unchanged unless there is additional data to indicate otherwise. *Interview with Director*; *Exhibit M,* p. 45.

7. District Guidelines outline a parent's right to an IEE at public expense if they disagree with an evaluation provided by District. *Exhibit M*, p. 15. Similarly, it outlines District's options for responding to an IEE request: (a) filing a request for due process hearing to show that its

evaluation was appropriate, or (b) ensuring that an IEE is provided at public expense. *Id*. District practice is to respond to an IEE request in a timely manner. *Interview with Director*.

8. District caps the cost of an IEE at $3,000, including the cost of the written report and any time associated with answering questions or providing additional information for the child's IEP team, unless there are special circumstances. *Exhibit M*, p. 15. District provides a list of approved evaluators for the IEE to parents; however, the list is not exhaustive and parents have the right to select another evaluator that meets District criteria. *Id*. at p. 16.

9. Further, District Procedure outlines District's obligation to annually review and revise a student's IEP. *Exhibit M*, p. 61. A student's IEP must be reviewed and revised as appropriate to address lack of expected progress towards annual goals, the results of any reevaluation, information about the child provided by parents, the child's anticipated needs, or other matters. *Id*.

10. Per District Procedure, parents are integral members of a student's IEP Team and District must take steps to ensure that parents have the opportunity to have meaningful participation in eligibility and IEP meetings. *Id*. at p. 35. If a parent cannot attend an IEP meeting, District must use other methods to ensure parent participation, like including parents on conference calls. *Id*. District does not have a policy outlining in what circumstances an IEP Team may convene an IEP meeting without the parent's attendance. *Interview with Director*.

C. Student's 2025 IEP

11. The 2025-2026 school year began on August 20, 2025. *Exhibit L*, p. 1. At that time, Student's IEP dated April 3, 2025 ("2025 IEP") was in effect. *Exhibit A*, p. 1.

12. The 2025 IEP identified Student's qualifying disability as ASD. *Id*. The 2025 IEP included two annual goals: one in social/emotional wellness and one in self-determination. *Id.* at p. 5. Additionally, the 2025 IEP included various accommodations, such as visual supports, teacher proximity, consistent praise and encouragement, prompted positive self-talk, graphic organizers and sentence stems for writing, and access to alternative seating and sensory tools for self-regulation. *Id*.

13. Student received 100 weekly minutes of behavior support outside of the general education classroom, 30 minutes monthly of writing support outside of the general education classroom, and 120 minutes monthly of direct social skills instruction from a mental health provider outside of the general education classroom. *Id*. at p. 9.

D. Student's Reevaluation

14. Student was due for his triennial reevaluation in Spring 2026. *Response*, p. 3. On January 13, 2026, Parents provided consent for District to reevaluate Student in three areas: communicative status, academic performance, and social and emotional status. *Complaint*, p. 4; *Exhibit G*, p. 1. District completed the reevaluation on March 13. *Exhibit F*, pp. 1-32.

15. Student's reevaluation included communicative status assessments, such as a social responsiveness scale ("SRS-2"); informal measures, such as classroom observations; parent interview; and a file review. *Exhibit F,* pp. 11-14. The results indicated that Student's social communication deficits may be creating "significant" social or academic barriers in the general education classroom. *Id*. at p. 13-14.

16. Additionally, the reevaluation included academic performance assessments, such as a review of records in reading, writing, math, district assessments, state assessments, his learner behaviors, including his emotional regulation, negative self-talk, and work refusal, and attendance. *Id*. at pp. 14-16.

17. The reevaluation also considered social and emotional assessments like autism spectrum rating scales ("ASRS"), Conners-4 ADHD Index ("Conners-4"), and Behavior Assessment System for Children ("BASC-3"). *Id*. at p. 16-29; *Interview with School Psychologist*. Parents participated as raters in the ASRS, Conners-4, and BASC-3. *Exhibit F*, pp. 17, 20, 23, 25-26.

18. ASRS included eleven assessment areas, including unusual behaviors, self-regulation, and social/communication. *Id. at* p. 19. The ASRS results demonstrated that Student struggles with poor concentration, attention, and distractibility. *Id*. at p.18. Overall, Student's ratings displayed behaviors consistent with ASD, impacting his communication, social interactions, and ability to manage changes in routine. *Id*. at p. 31.

19. Student's results on the Conners-4 demonstrated high or very high scores from all raters. *Id*. at pp. 20-23. This indicates scores consistent with Student's ADHD diagnosis and that attention and focus adversely affect him across the school and home setting. *Id*. at pp. 20, 31.

20. Student's BASC-3 results showed many at risk or clinically significant behaviors, such as externalizing problems, hyperactivity, aggression, anxiety, attention problems, internalizing problems, withdrawal, social skills, functional communication, atypicality and adaptability. *Id*. at p. 25. These results indicated that Student struggles with maintaining positive relationships and adapting to social situations. *Id.* at p. 32.

21. Other information included in the reevaluation included a student interview and a parent interview to gather information about Student's medication, mental health treatment, strengths, challenges, and Parent's concerns. *Id.* at pp. 29-31. The reevaluation also considered private neurodevelopmental evaluations completed in 2023 ("2023 Private Evaluation") and in 2025 ("2025 Private Evaluation"). *Id.*

22. District also conducted a functional behavior assessment ("FBA") on March 13 that included a student interview, parent interview, teacher and staff interviews, Antecedent, Behavior, and Consequence data ("ABC data"), Student observations, record review, environmental review, and reinforcement inventory. *Response*, p. 5; *Exhibit F*, pp. 1-10; *Interview with Case Manager*. As part of the FBA, District's goal was to understand Student's disruptive and self-injurious behaviors. *Exhibit F*, p. 2.

23. The FBA found that Student's disruptive and self-injurious behaviors were best understood as a combination of task avoidance, emotional regulation challenges, communication skill deficits, and a need for predictable structure and adult support. *Id*. at p. 4.

24. District gathered ABC data on February 24 and March 11 and the FBA noted that Student's triggers for behavior included performing non-preferred tasks, such as writing, difficulty with transition, not earning a reward or meeting an expectation, loss or damage of preferred items, perceived social or emotional concerns, and academic demands. *Id*. at pp. 3-5. Student demonstrated improved engagement when he was provided with advanced notice and predictability, given adult support and encouragement, when tasks were broken into steps, and when he had access to structured reinforcement. *Id*. at p. 4.

25. District provided the reevaluation to parents ahead of meetings. *Response*, p. 5; *Complaint*, p. 5. Parents, their advocate ("Advocate"), Student's psychologist, and Student's pediatrician reviewed the draft evaluation report. *Complaint*, p. 5; *Interview with Parent*. Advocate, psychologist, and pediatrician expressed concerns to Parents about the comprehensiveness of the evaluation. *Interview with Parent*. Parents shared these same concerns. *Complaint*, p. 5; *Interview with Parents*.

26. District's final reevaluation report included a summary of Parents' interview as well as a summary of the 2023 Private Evaluation and the 2025 Private Evaluation provided by Parents. *Exhibit F*, pp. 13, 29, 30.

E. March 2026 Eligibility Meeting

27. A multidisciplinary team ("MDT") met to review and discuss the reevaluation on March 24, 2026. *Response*, p. 7; *Complaint*, p. 5. Though District intended to review the reevaluation and discuss Student's eligibility at the meeting, the MDT was ultimately unable to meaningfully present or discuss the reevaluation. *Response*, p. 7; *Interviews with Coordinator, School Psychologist, and Case Manager*. This is because Advocate controlled the discussion in a way that made collaboration difficult and prevented the MDT from sharing their results or answering any questions. *Id*.

28. During the meeting, Parents and Advocate raised concerns that District had not assessed Student's written expression, task initiation, behavior, or executive functioning. *Complaint*, p. 5; *Interview with Parent*. Advocate asked District specifically about doing a formal writing assessment and an executive functioning assessment. *Interview with Case Manager.* District agreed to these additional assessments, even though they did not view them as necessary. *Interview with Case Manager*; *Response*, p. 7.

F. Parents' Request for an IEE and District's Response

29. On March 26, Parents emailed District to request an IEE at public expense. *Exhibit N*, p. 3; *Complaint*, p. 5. Specifically, Parents requested standardized cognitive testing; academic achievement testing, including assessment of reading, math, and written language; executive

functioning testing; a written language assessment, an independent FBA, an assistive technology assessment, and a social-emotional assessment. *Exhibit H*, p. 4.

30. District's spring break took place between March 30 and April 3. *Exhibit L*, p. 1. On March 30, District responded to Parents, explaining that staff would respond to Parents' request once they returned from spring break. *Exhibit H*, p. 3. Parents replied the next day, on March 31, and requested District respond "without unnecessary delay." *Id.* at p. 2.

31. On April 9, Parents followed up on the status of District's response. *Id.* at p. 3. On April 10, District replied to Parents, confirming receipt of Parents' request and indicating that District was currently in the process of conducting and reviewing their reevaluation of Student. *Id*. at p. 2. District explained that they would wait until the additional assessments were completed before responding to Parents' request. *Id*. Parents responded the same day and requested a formal Prior Written Notice ("PWN") either granting the IEE at public expense or notifying Parents of District's filing of a due process complaint. *Id*. at p. 1.

32. On April 13, District issued PWN to Parents documenting their determination on the IEE, explaining that District would "not be responding to the parent request for an IEE at this time because the district's evaluation is not yet completed" and that District "has the obligation to provide a comprehensive evaluation and presenting their findings to the parent." *Exhibit D*, p. 1. The PWN indicated District would "complete the evaluation by conducting assessments as outlined in the consent for evaluation on 1/13/2026 and per parent request on 3/24/26." *Id*.

33. On April 14, District contacted Parents to confirm they still had consent to evaluate Student. *Exhibit N*, p. 28. Parents replied the same day and withdrew their consent for District to conduct any further evaluations of Student. *Id*. at p. 29. In their email, Parents instructed District that they had "two choices" and that "neither one is getting a do over,"; District could either grant the request for an IEE or file a due process complaint. *Id*.

34. On April 16—21 days after Parents first requested an IEE—District agreed to fund the IEE. *Exhibit D*, p. 2. District issued PWN explaining that District considered conducting additional assessments per Parents' request in the March 24, 2026 eligibility meeting but that was rejected after Parents revoked consent for evaluation on April 14. *Exhibit D*, p. 2. District provided the District Guidelines to Parents, explained that District still needed to hold Student's eligibility and IEP meeting, and attached a Notice of Meeting for April 23. *Exhibit N*, p. 32.

35. On April 17, Parents questioned the cost cap of $3,000 outlined in District Guidelines and said it was "unreasonably low." *Id*. at p. 12. Parents asserted a special circumstances exception to the cost criteria, requested District fund travel to obtain the IEE, stated concerns with District's mental health support, requested an FBA, and objected to the eligibility and IEP meeting on April 23. *Id*. at pp. 12-13. Parents asserted that any meeting held before the IEE or FBA were conducted would be "premature and a waste of the team's time." *Id*. at p. 13.

36. District replied on April 20 and explained that it would consider costs higher than $3,000 but only after Parents selected a provider. *Id*. at p. 51. District also said it would consider reimbursing the evaluator's travel expenses. *Id*. Additionally, District reminded Parents that, since Student's annual IEP was due, it had an obligation to timely review the IEP. *Id*. The IEP was due for an annual review by April 2, 2026. *Exhibit A*, p. 1. District sent a calendar invitation for a meeting to be held on April 23, 2026. *Exhibit N,* p. 19. Parents then indicated they would be unable to meet over the next two weeks due to travel and busy work schedules. *Id*.

37. On April 21, Parents emailed District and conditioned providing their selected provider's name "when, and only when, the district provid[ed] a written special circumstances waiver" that eliminated the $3,000 cost cap, authorized travel and lodging for the evaluator and Parents, and canceled the April 23 meeting to allow the IEE to be completed and reviewed. *Id*. at p. 52.

38. That same day, on April 21, a private psychologist ("Private Evaluator") informed District that Parents had selected Private Evaluator for the IEE and provided a billing agreement. *Id*. at p. 89. On April 29, Private Evaluator and District executed a contract and District agreed to fund the IEE above the cost cap. *Response*, p. 8; *Exhibit N*, p. 94.

G. May 2026 Eligibility and IEP Meeting

39. On April 28, District emailed Parents to provide three potential dates—May 5, 14, or 19 at 8:30 a.m.—to convene Student's IEP Team for his annual review meeting. *Exhibit N*, p. 108.

40. On May 1, Parents indicated that the proposed times conflicted with their work schedules. *Id*. at p. 114. Instead, Parents requested that Student's existing IEP remain in effect and the annual IEP review be postponed until after the IEE results were available. *Id*. District emphasized its obligation to review Student's IEP annually and indicated the annual review would include Parents' recently raised concerns about Student's behaviors. *Id*. at p. 116. District indicated the May 14 meeting would occur as scheduled and that they would make the meeting available virtually to Parents. *Id*. District asked Parents for any meeting dates they preferred over May 14 and noted that District would review the IEP again when the IEE was completed. *Id*.

41. On May 3, Parents objected to the May 14 eligibility and IEP meeting going forward, stating that they disagreed with District holding the meeting at a time that was not mutually agreeable and without the results of the IEE. *Exhibit N*, p. 130. Further, Parents refused to attend any meetings "without the benefit of pending [IEE] data." *Id*.

42. On May 13, District reminded Parents of the May 14 eligibility and IEP meetings and offered a virtual attendance option. *Id*. at p. 135. District reiterated that they would hold another meeting once the IEE report was provided to District. *Id*.

43. On May 14, District held Student's eligibility and IEP meeting. *Response*, p. 9; *Interview with Case Manager, Coordinator, and School Psychologist*. School Psychologist, Coordinator,

Student's homeroom teacher, Case Manager, a speech language pathologist, and a school social worker attended. *Exhibit E*, p. 2. During the meeting, the MDT reviewed the reevaluation to determine Student's continuing eligibility. *Id.* at p. 3. The MDT also considered his existing writing accommodations and reviewed two writing samples to assess his writing proficiency. *Exhibit E*, p. 3; *Exhibit F*, p. 15. The MDT found Student eligible for special education under ASD and OHI, the only eligibility categories considered by the MDT. *Exhibit E*, p. 3; *Exhibit A*, p. 13.

44. Afterwards, the IEP Team met to review and revise his IEP. *Exhibit E*, p. 3; *Exhibit* A, pp. 13-29; *Interviews with Case Manager and Coordinator*. The IEP Team agreed to meet again after the IEE was completed to consider the results and update the IEP if needed. *Exhibit A*, p. 13.

45. Parents contacted District on May 15 and requested the meeting minutes and PWN for the May 14 meeting. *Exhibit N*, p. 135. District provided the requested items to Parents on May 18. *Id.* at pp. 135-136.

H. IEE

46. Student's IEE took place on May 12, 2026. *Exhibit F*, p. 33. The IEE consisted of a comprehensive assessment that examined his cognitive and intellectual functioning, academic achievement, executive functioning, memory, language, visual motor and fine motor skills, behavioral functioning, and social-emotional functioning. *Id.* Information was obtained through Parent and Student interviews, conducted on May 4, 2026, standardized testing, and behavior-rating forms completed by Parents, Student, and teachers. *Id.*

47. During the IEE, Student demonstrated above average general intelligence ability but "significantly discrepant writing skills." *Id*. at p. 39. Student's spelling was in the 24th percentile and his overall written expression was approximately one grade level below (grade level equivalent of 2.8). *Id*. In contrast, Student's reading skills were "significantly" above his current grade level and his overall math skills were at his current grade level. *Id*. Additionally, he demonstrated "significant difficulties" with attention and working memory skills, and Parent and teacher rating forms indicated concerns regarding his ability to control impulsive responses and sustain working memory. *Id*. Student also presented with "poor social communication skills, behavioral rigidity, and restricted interests." *Id*.

48. Based on these results, the IEE report recommended that Student met the diagnostic criteria for Attention-Deficit/Hyperactivity Disorder, Combined Presentation (ADHD-C), Specific Learning Disorder with impairment in written expression, Developmental Coordination Disorder (DCD), ASD, Generalized Anxiety Disorder (GAD), and Unspecified Depressive Disorder. *Id.* at p. 39.

49. The IEE report recommendations included behavioral parent training (BPT), consulting with a pediatrician or child psychiatrist to evaluate any appropriate medication changes, and educational and home-based modifications like frequent check-ins during independent work, minimizing distractions in the classroom setting, like providing front row seating, using

"hands-on" learning methods, providing frequent breaks from academic and other challenging tasks, and extra time on tests and classwork. *Id*. at pp. 39-41. Recommendations also included adding additional direct minutes of special education instruction to Student's IEP to address his written expression, an increase in speech/language therapy services, and the addition of direct occupational therapy services. *Id*. at pp. 41-42. The IEE did not recommend any changes to Student's current IEP for mental health services. *Id*.

50. On May 29, Private Evaluator notified Parent that the IEE report was ready. *Exhibit N*, p. 149. On May 31, Parents notified District and asked for an "urgent IEP meeting" to update Student's IEP based on the IEE. *Id*. at p. 150.

51. District offered an IEP meeting on June 4 at 8:30 a.m. to review the IEE and update his IEP. *Id*. Parents responded the same day saying they wanted Private Evaluator to attend the meeting and did not confirm the June 4 meeting. *Id*. at p. 151. Parents declined the meeting invitation after receiving an out-of-office reply from Private Evaluator, explaining that they wanted Private Evaluator to attend the meeting. *Id*. at pp. 154-156. Parents asked that the IEP Team convene again in August when school staff was back from the summer break. *Id*. at p. 156.

52. On June 8, District sent Parents their availability for August, including times for August 14, 17, and 18, to review the IEE and IEP before the start of the 2026-2027 school year. *Id*. at p. 160. An IEP Team meeting was scheduled for August 14. *Id*.

I. August 2026 IEP Meetings

53. On August 14, 2026, District convened an MDT and Student's IEP Team, including Parents and Private Evaluator, to review Student's IEE, discuss eligibility, and revise Student's IEP if necessary. *Interviews with Parents, Case Manager, School Psychologist, and Coordinator*. During the meeting, the District reviewed both the reevaluation and the IEE. *Interviews with Parents, Case Manager, School Psychologist, and Coordinator*; *Exhibit U*, pp. 1-2; *Exhibit T*. Private Evaluator shared his results of the IEE and his recommendations. *Interviews with Parents, Case Manager, School Psychologist, and Coordinator; Exhibit U*, pp. 1-2; *Exhibit T*.

54. Ultimately, District noted substantial alignment between the data from the reevaluation and the IEE. *Interviews with Coordinator, Case Manager, and School Psychologist*.

55. The District decided to continue the IEP meeting to a later date to allow for adequate time to discuss eligibility and revised his IEP as necessary for the 2026-2027 school year. *Exhibit T* at 36:44-37:08; *Exhibit U,* p. 2.

56. On August 20, the MDT, including Parents, convened again to discuss Student's eligibility. *Interviews with Parents, Case Manager, School Psychologist, and Coordinator; Exhibit S; Exhibit V*, pp. 2-4. The MDT determined he did not qualify for special education services under SLD in written expression, but he continued to qualify under OHI and ASD. *Interviews with Parents, School Psychologist, Case Manager, and Coordinator; Exhibit S; Exhibit V,* pp. 2-3.

57. The IEP Team then met to review each recommendation from the IEE Report and discuss how it may align with Student's IEP. *Exhibit S; Exhibit V,* p. 3*; Interviews with Parents, Coordinator, and School Psychologist.*

58. Based on the IEE, the IEP Team amended Student's IEP to add 50 more minutes of specialized writing instruction, for a total of 80 minutes per month, provided outside of the general education classroom. *Exhibit S*; *Exhibit W*, p. 5; *Interview with Coordinator*. Additionally, the IEP Team added to his IEP accommodations for frequent check-ins and extra time on test and classwork and added language about "hands-on learning methods" to the present levels for instructional strategies. *Exhibit V*, p. 3.

59. The IEP was revised with these changes on August 21. *Exhibit R*, pp. 1-17.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District conducted a comprehensive reevaluation of Student in all areas related to the suspected disability, as required by 34 C.F.R. § 300.304(b)(1), 300.304(c)(4). District complied with the law.

I. Legal Requirements: Evaluation Procedures

The IDEA requires an evaluation to assess students "in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities." 34 C.F.R. § 300.304(c)(4). "This is not an exhaustive list of areas that must be assessed. Decisions regarding the areas to be assessed are determined by the suspected needs of the child." *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46,643 (Aug. 14, 2006). 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 in which the child has been classified." 34 C.F.R. § 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). Once a school district has conducted these assessments, it must ensure that the "information obtained from . . . these sources is documented and carefully considered" in determining if a child is a child with disability. *Id.* § 300.306(c)(1)(ii).

As additional requirements for reevaluations, districts must review any existing evaluation data on the child, including (1) evaluations and information provided by the parent of the child, (2) current assessments and classroom observations, and (3) observations by teachers and related service providers. *Id.* § 300.305(a)(1). Based on that review and input from the child's parents,

districts must then identify what additional data, if any, are needed to determine whether the child continues to have such a disability and their educational needs. *Id*. § 300.305(a)(2).

II. Student's Reevaluation

Parents assert that the reevaluation was not comprehensive because District did not consider information provided by Parents and did not assess Student's written expression, task initiation, behavior, social-emotional needs, and executive functioning. (FF # 28). The CDE must consider whether District used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about Student and assessed Student in all areas related to Student's suspected disability.

A. *Information Provided by Parents*

As part of Student's reevaluation, District collected and reviewed information provided by Parents. (FFs # 15, 17, 21). First, District conducted a Parent interview to gather parent input about Student's medication, mental health treatment, and his strengths, challenges, and concerns. (FF # 21). Parents also provided input through rating scales for the ASRS, Conners-4, and BASC-3. (FF # 17). Additionally, Parents provided two private evaluations, 2023 Private Evaluation and 2025 Private Evaluation, for consideration. (FF # 21). District staff reviewed and considered both of these evaluations as part of Student's reevaluation. (*Id*.). District's final reevaluation report included a summary of Parents' interview, as well as a summary of 2023 Private Evaluation and 2025 Private Evaluation provided by Parents. (FF # 26).

For these reasons, the CDE finds and concludes that District used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about Student, including information provided by Parents, as required by 34 C.F.R. § 300.304(b)(1). District complied with the IDEA.

B. *Assessing Student in Areas of Suspected Disability*

Here, the Record shows that District assessed Student in all areas of suspected disability, specifically, executive functioning, behavior, social-emotional needs, and written expression. District used the Conners-4 to evaluate his executive functioning skills. (FF #s 24, 26). Additionally, the Reevaluation assessed Student's behavior and social-emotional needs using the BASC-3 and an FBA. (FF #s 17, 20, 22). District used two writing samples to gain an understanding of Student's writing abilities. (FF # 43). The FBA also provided insight into how Student responded to writing tasks, which proved to be one of his least preferred tasks at School. (FF # 24). Given the eligibility categories being considered—ASD and OHI—reviewing Student's writing samples was adequate. All of the areas raised by Parents except social-emotional needs fell outside the areas of suspected disability initially identified by District. Nonetheless, District agreed to conduct additional assessments in these areas after Parents raised concerns during Student's eligibility meeting, even though District staff did not believe the assessments were necessary. (FF # 28).

For these reasons, the CDE finds that District evaluated Student in all areas related to the suspected disability, specifically, written expression, executive functioning, behavior, and social-emotional needs. Accordingly, District complied with 34 C.F.R. § 300.304(c)(4).

Conclusion to Allegation No. 2: District provided an IEE at public expense without unnecessary delay, as required by 34 C.F.R. § 300.502(b)(1)-(2). District complied with the law.

I. Legal Requirements: Responding to IEEs without Unnecessary Delay

Under the IDEA, parents have the right to seek an IEE at public expense if they disagree with an evaluation obtained by the school district. 34 C.F.R. § 300.502(b)(1). An "IEE" is an evaluation conducted by a qualified examiner who is not employed by the child's school district. *Id.* § 300.502(a)(3)(i). Once a parent requests an IEE, the district must "without unnecessary delay" either (1) file a due process complaint to request a hearing to show that the district's evaluation was appropriate; or (2) provide the IEE at public expense. *Id.* § 300.502(b)(2).

Neither the IDEA nor guidance from the U.S. Department of Education defines what constitutes "unnecessary delay." *See id.* Whether a delay is unnecessary is a "fact-specific inquiry" which turns on the circumstances of the individual case. *C.W. v. Capistrano Unified Sch. Dist.*, 784 F.3d 1237, 1247 (9th Cir. 2015). However, prior CDE state-level complaint decisions provide guidance on this issue. The CDE previously found delays of 63 days and 120 days to constitute an unnecessary delay. *See Boulder RE-1J, St. Vrain*, 123 LRP 5309 (SEA CO 2022) (finding delay of 63 days without any communication to be unnecessary); *Weld Cnty. Sch. Dist. RE-5J*, 121 LRP 19090 (SEA CO 2021) (finding four-month delay in providing the IEE to be unnecessary). Alternatively, the CDE has found delays of two weeks and 38 days to not be unnecessary. *See Arapahoe Cnty. Sch. Dist. 6*, 121 LRP 13659 (SEA CO 2021) (finding two-week delay before moving forward with an IEE to be acceptable); *Denver Pub. Schs.*, 124 LRP 34289 (SEA CO 2024) (finding delay of 38 days acceptable where there was miscommunication among the parties, initial responsiveness by the district, and no intent to purposefully delay the request).

II. District's Response to Parents' Request for an IEE

Here, Parents and Advocate asked the District about adding a formal writing assessment and testing in executive functioning to the reevaluation during the March 24 eligibility meeting. (FF # 28). District agreed to these additional assessments, despite finding them unnecessary. (*Id*.). Two days after the eligibility meeting, Parents requested an IEE because they did not find District's reevaluation to be comprehensive. (FF # 29). District had not yet started the additional assessments, as this request was made the Thursday before spring break. (FF #s 29, 30).

On March 30—during spring break—District explained that they would respond to Parents' request once school staff returned from break. (FF # 30). Following spring break, District and Parents went back and forth about the IEE request. (FF #s 30-31). Ultimately, on April 13, District issued PWN to Parents explaining that District would "not be responding to the parent request for an IEE at this time because the district's evaluation is not yet completed." (FF # 32). District

indicated it was "obligated to present a comprehensive evaluation to parents" and needed to complete the additional assessments requested by Parents before it could consider an IEE. (*Id*). District followed up the next day to confirm Parents' consent for the additional evaluations. (FF # 33). Parents withdrew their consent for the additional assessments. (*Id*.). On April 16, District agreed to fund an IEE and provided PWN to Parents explaining the decision. (FF # 34).

Even assuming Parents were entitled to an IEE when they requested one on March 26—a question the CDE need not address in this Decision—at most, 21 days passed between Parents' initial request for the IEE and District's agreement to fund an IEE. (FF #s 29-34). These 21 days also included District's 5-day spring break and conversations between the parties about whether Parents could request an IEE given the pending assessments (*Id*). Three weeks, including one week of District holiday, does not constitute an "unreasonable delay," especially considering the fact that District approved the IEE only two days after Parents withdrew consent for the additional assessments they previously requested. *See Denver Pub. Schs.*, 124 LRP 34289 (SEA CO 2024.

Accordingly, the CDE finds and concludes that District provided an IEE at public expense without unnecessary delay, as required by 34 C.F.R. § 300.502(b)(1)-(2). District complied with the IDEA.

<u>Conclusion to Allegation No. 3</u>: District did not improperly impose any conditions or timelines related to obtaining an IEE following Parents' request on March 26, 2026, as prohibited by 34 C.F.R. § 300.502(e). District complied with the law.

I. <u>Legal Requirements: IEE Conditions</u>

The IDEA provides a parent the right to seek an IEE at public expense if the parent disagrees with an evaluation completed by the school district. 34 C.F.R. § 300.502(a)(1), (b)(1). IEEs "play a critical role in the IDEA framework." *Alex W. v. Poudre Sch. Dist. R-1*, 94 F.4th 1176, 124 LRP 7692 (10th Cir. 2024). School districts naturally have an advantage in terms of information and expertise compared to parents. *Id.* The IDEA "counterbalances this advantage by providing parents with the right to an IEE at public expense." *Id.* An IEE "ensures parents 'are not left to challenge the [school district] . . . without an expert with the firepower to match the opposition.'" *Id.* (quoting *Schaffer v. Weast*, 546 U.S. 49 (2005)).

The IDEA allows school districts to impose certain criteria on IEE—such as related to the location of the evaluation or the qualifications of the evaluator—as long as those criteria also apply to evaluations completed by the district. *Id.* § 300.502(e)(1). Otherwise, school districts "may not impose conditions or timelines related to obtaining" an IEE. 34 C.F.R. § 300.502(e)(2).

School districts must provide parents with the district's criteria for IEEs. 34 C.F.R. § 300.502(a)(2). This requirement arises, in part, from the U.S. Department of Education's "longstanding position that public agencies should not be required to bear the cost of unreasonably expensive IEEs." *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities,* 71 Fed. Reg. 46540, at 46689 (2006). A school district may "establish reasonable cost containment criteria" as long as the district provides parents with an

"opportunity to demonstrate that unique circumstances justify selection of an evaluator whose fees fall outside the [district's] cost containment criteria." *Id*. at 46689-90; *see also Letter to Kirby*, 213 LRP 9331 (OSERS 1989).

II. District's IEE Cost Criteria

Here, after Parents requested an IEE, District provided Parents with the District Guidelines which outline District's $3,000 cost cap on IEEs, excluding exceptions for special circumstances, on April 16, 2026. (FF #s 8, 35). On April 17, Parents responded by rejecting the cost cap of $3,000 as outlined in District Guidelines and stated that it was "unreasonably low." (FF # 35). Parents also asserted a special circumstances exception to the cost criteria and requested District fund travel to obtain the IEE. (*Id.*). District replied on April 20 and explained that it would consider costs higher than $3,000 but was unable to do so until Parents selected a provider. (FF # 36). On April 21, Parents emailed District and explained that they would provide their selected provider's name "when, and only when, the district provid[ed] a written special circumstances waiver" that eliminated the $3,000 cost cap, and authorized travel and lodging for the evaluator and Parents. (FF # 37). The same day, the IEE Team contacted District to inform them that Parents had requested an IEE for Student and included their billing agreement. (FF # 38). On April 29, after some negotiation of the contact, IEE Team and District executed a contract and District agreed to fund the IEE above the cost cap. (*Id*.).

For these reasons, the CDE finds and concludes that District did not impose any conditions related to obtaining an IEE following Parents' request on March 26, 2026, as prohibited by 34 C.F.R. § 300.502(e). District complied with the IDEA.

Conclusion to Allegation No. 4: District did not have an obligation under 34 C.F.R. § 300.502(c) to consider the IEE at the meeting on May 14, 2026, because the IEE results were not yet ready for review. District complied with the law.

I. Legal Requirement to Consider IEE

When a parent obtains an IEE, the district must consider the results of that IEE "in any decision made with respect to the provision of FAPE to the child." 34 C.F.R. § 300.502(c). While a school district must consider the results of the IEE, the district has no obligation to accept the evaluator's recommendations or conclusions. *See T.S. v. Bd. of Educ. of the Town of Ridgefield*, 10 F.3d 87 (2d Cir. 1993) (finding an IEE appropriately considered where portions of the IEE were read aloud and others summarized at the IEP Team meeting); *G.D. v. Westmoreland Sch. Dist.*, 930 F.2nd 942 (1st Cir. 1991) (noting that the IDEA only requires that an IEE be considered, "not that there be substantive discussion of that opinion"). In *G.D.*, the First Circuit Court of Appeals found an IEP Team considered an IEE consistent with § 300.502(c) where the IEP Team incorporated "some aspects" of the evaluation into the IEP, even though the neither the student's IEP nor his placement were "effectively altered" as a result of the consideration. 930 F.2d at 945.

II. Consideration of Student's IEE

Here, Private Evaluator completed the IEE on May 12, 2026. (FF # 46). However, the results of the IEE were not available until May 29. (FF # 50). Student's eligibility and IEP meeting took place on May 14, before the IEE results were available. (FF # 43). Parents notified District that they were in receipt of the IEE results on May 31. (FF # 50). While the IDEA obligates District to consider the results of the IEE, District cannot do so until the results are received. 34 C.F.R. § 300.502(c). Therefore, District was not obligated to consider the IEE at the meeting on May 14.

Even so, District agreed to convene a meeting to discuss the IEE after the results were received. (FF #s 51-52). On August 14, 2026, the IEP Team, including Parents and Private Evaluator, reviewed the IEE. (FF #s 53-54). At the meeting, Private Evaluator presented his findings, and the IEP Team ultimately noted alignment between data from the reevaluation and the IEE. (*Id.*). On August 20, the IEP Team, including Parents, met again to discuss Student's eligibility and revise Student's IEP. (FF # 56). His IEP was updated to include recommendations from the IEE. (FF # 58).

For these reasons, the CDE finds and concludes that District did not have an obligation under 34 C.F.R. § 300.502(c) to consider the IEE at the meeting on May 14, 2026 because the IEE results were not yet ready for review. Nonetheless, District still convened Student's IEP Team in August 2026 to review the IEE and incorporate the recommendations into Student's IEP. District complied with the law.

Conclusion to Allegation No. 5: The District ensured that a group of qualified professionals and parents were present when making the eligibility determination for Student at the May 2026 meeting, as required by 34 C.F.R. § 300.306(c)(1) and ECEA Rule 4.02(6)(b)(i). District complied with the law.

I. Legal Requirements: Eligibility Determinations

Eligibility for special education and related services under the IDEA requires that (1) a child have one of thirteen qualifying disabilities and, (2) "by reason thereof, need[ ] special education and related services." 34 C.F.R. § 300.8(a)(1); ECEA Rule 2.09. Thus, even if a child has one of the thirteen qualifying disabilities, the child must also require "specially designed instruction . . . to meet [his or her] unique needs." 34 C.F.R. § 300.39(a)(1). If the child has a qualifying disability "but only needs a related service and not special education, the child is not a child with a disability" under the IDEA. 34 C.F.R. § 300.8(a)(2).

The IDEA requires that an MDT determine "whether the child is a child with a disability." *Id*. § 300.306(a)(1). An analysis of the appropriateness of an eligibility determination involves two steps. First, the CDE examines whether the school district followed relevant standards and procedures in making the determination. *See Questions and Answers on IDEA Part B Dispute Resolution Procedures*, 61 IDELR 232 (OSERS 2013). Second, the CDE determines whether the eligibility decision was consistent with the data in the record. *Id.* As a matter of policy, the CDE cannot declare a student IDEA eligible through a state complaint decision. *Jefferson Cnty. Sch. Dist. RE-1*, 118 LRP 28108 (SEA CO 2018).

II. Adherence to IDEA Standards and Procedures

The CDE begins by examining whether District adhered to applicable IDEA standards and procedures regarding how school districts evaluate students and determine eligibility. *See* 34 C.F.R. §§ 300.304-306.

A. *Determination Made by Group of Qualified Professionals and Parent*

The IDEA requires that a "group of qualified professionals and the parent of the child" determine whether the child is eligible for special education. *Id.* § 300.306(a)(1). This group must be "knowledgeable about the child and about the meaning of the evaluation data" and must include: "[a]t least one teacher or other specialist with knowledge in the area of the child's suspected disability," other qualified professionals as necessary, and the parent of the child. ECEA Rule 4.02(6)(b)(i).

Districts must provide parents an opportunity to participate in meetings regarding "the identification, evaluation, and educational placement" of their child and meetings regarding the provision of FAPE. 34 C.F.R. § 300.501(b)(1). To ensure parents have that opportunity, districts must provide parents notice consistent with 34 C.F.R. §§ 300.322(a)(1) and (b)(1). *Id.* at § 300.501(b). Meetings must be scheduled at a mutually agreeable time and place and "early enough to ensure [parents] will have an opportunity to attend." *Id.* § 300.322(a)(1).

If a parent cannot attend an IEP meeting, the district must use other methods to ensure parent participation, including individual or conference telephone calls or other alternative methods. *Id.* § 300.322(c). Additionally, a meeting may be conducted without a parent in attendance if the district is unable to convince the parents that they should attend. *Id.* § 300.322(d). In this case, the district must keep a record of its attempts to arrange a mutually agreed upon time and place. 34 C.F.R. § 300.322(d). If a parent refuses to attend or is entirely unresponsive to a District's requests to meet, the agency has a duty to move forward with the IEP process. *See K.D. v. Dep't of Educ.*, 665 F.3d 1110, 1124 (9th Cir.2011). Additionally, where a parent chooses not to meaningfully participate in the IEP development process, resulting procedural defects do not result in a denial of FAPE. *Sytsema ex rel. Sytsema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306, 1315 (10th Cir. 2008).

Here, after District completed the reevaluation, Parents requested that District complete additional assessments in a few areas. (FF # 28). District agreed to complete those assessments, but, before the assessments could be completed, Parents requested an IEE. (FF #s 28-29). After going back and forth with Parents regarding the IEE for several weeks, District reiterated the need to convene the IEP Team to complete his annual review. (FF #s 29-34, 36). On April 20, District sent a calendar invitation for a meeting on April 23, 2026. (FF # 36). Parents explained that they would be unable to meet over the next two weeks due to travel and busy work schedules. (*Id*.).

On April 28, 2026, District asked Parents about three potential meeting dates in May. (FF # 39). Parents rejected those options and requested that the meeting not take place until after the

results of the IEE were available. (FF # 40). District asked Parents for any meeting dates they preferred over the May 14 option and noted that the IEP Team would review the IEP again when the IEE was completed. (*Id*.). Parents did not offer any availability for any dates or times for an eligibility or IEP review meeting for Student. (*Id*.). On May 3, Parents emailed District and formally objected to any meeting going forward on May 14 because they would not have the results of Student's IEE, stating that they refused to attend any meetings until they had the IEE results. (FF # 41). On May 13, District sent Parents a reminder of the May 14 eligibility and IEP meeting and offered a virtual attendance option to Parents. (FF # 49). District also explained again that they would hold another meeting once the IEE report was provided to them. (*Id*.).

District convened Student's eligibility meeting as scheduled on May 14, 2026. (FF # 43). The MDT included School Psychologist, Coordinator, Student's homeroom teacher, Case Manager, a speech language pathologist, and a school social worker. (*Id*.). This group included qualified professionals who were knowledgeable about Student and the evaluation data, as well as at least one teacher or other specialist with knowledge in Student's suspected disability (*Id*.).

Parents, however, did not attend the meeting. (*Id*.). District provided Parents with multiple dates for the meeting, asked Parents for their availability, and emphasized their willingness to convene two meetings (one now and one after the results of the IEE were received). As a result, the CDE finds that Parents chose not to participate in the May 2026 meeting.

District provided a valid basis for the IEP Team meeting: timely completing Student's annual IEP review as required by 34 C.F.R. § 300.324(b). (FF #s 36, 40). District also made the meeting available virtually and repeatedly offered to meet again once the results of the IEE were received. (FF #s 40, 42). Parents refused to attend until the IEE results were received. (FF # 41). Nothing in the IDEA gave Parents the authority to refuse District's request to convene a meeting and later complain about not being included in the meeting. District provided Parents notice consistent with 34 C.F.R. § 300.322(a)-(b). Nonetheless, District could not convince Parents to attend. Given Parents' refusal to participate, District had an obligation to move forward with the eligibility determination process. *See K.D. v. Dep't of Educ.*, 665 F.3d 1110, 1124 (9th Cir.2011).

For these reasons, the CDE finds and concludes that Parents chose not to attend the May 2026 eligibility meeting and that District conducted the meeting without Parents' attendance, consistent with 34 C.F.R. §§ 300.306(a)(1), 300.322(d), 300.501(b). As a result, District complied with 34 C.F.R. § 300.306(a)(1) and ECEA Rule 4.02(6)(b)(i).

III. Consistent with Student-Specific Data

The CDE next considers whether the eligibility determination was consistent with Student-specific data in the Record. (FF #s).

A. *OHI*

OHI "means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment due to a chronic or acute health problem." 34 C.F.R. § 300.8(c)(9); ECEA Rule 2.09(7). A chronic condition is a "health condition or disease that is persistent or otherwise long-lasting in its effects or a disease that comes with time", such as ADHD, diabetes, or epilepsy. *CDE's Guidance for Determining Eligibility for Special Education Students with Other Health Impairments*, p. 2 (CDE August 2020), *available at* https://www.cde.state.co.us/cdesped/guidance_determiningeligibility_sped_students_ohi. Generally, an illness must last three months or longer to be considered chronic. *Id.* An acute health problem "begins abruptly and with marked intensity, then subsides or has rapid onset, severe symptoms, and a short course." *Id.* A medical diagnosis is not necessary, nor by itself sufficient to establish OHI eligibility. *Id.* at p. 3.

Here, the Record reflects that the MDT considered the reevaluation, including observations, formal assessments, and feedback from Parents in finding Student eligible under OHI. (FF #s 15-17, 19, 43). District's reevaluation demonstrated scores consistent with Student's ADHD diagnosis. (FF # 19). Student's results on the Conners-4 demonstrated either high or very high scores from all raters. (*Id*.). Additionally, his ASRS scores evidenced struggles with concentration, attention, and distractibility. (FF # 18). BASC-3 results showed at risk or clinically significant scores for hyperactivity, attention problems, withdrawal, and adaptability, indicating that Student's attention and focus adversely affect him in the school and home setting. (FF #s 20). For these reasons, the CDE finds and concludes that District made the OHI eligibility determination consistent with the IDEA's procedures, the reevaluation, and other data in Student's record.

B. *ASD*

ASD is "a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance." 34 C.F.R. §300.8(c)(1); *see also* ECEA Rule 2.09(1). "[E]ngagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences" are often associated with autism. 34 C.F.R. §300.8(c)(1). To be eligible for special education, the ASD must "preven[t] the child from receiving reasonable educational benefit from general education as evidenced by at least one characteristic in each of the following three areas":

i. The child displays significant difficulties or differences or both in interacting with or understanding people and events. Examples of qualifying characteristics include, but are not limited to: significant difficulty establishing and maintaining social-emotional reciprocal relationships, including a lack of typical back and forth social conversation; and/or significant deficits in understanding and using nonverbal communication including eye contact, facial expression and gestures;

ii. The child displays significant difficulties or differences which extend beyond speech and language to other aspects of social communication, both receptively and expressively. Examples of qualifying characteristics include, but are not limited to: an absence of verbal language or, if verbal language is present, typical integrated use of eye contact and body language is lacking; and/or significant difficulty sharing, engaging in imaginative play and developing and maintaining friendships; and

iii. The child seeks consistency in environmental events to the point of exhibiting significant rigidity in routines and displays marked distress over changes in the routine, and/or has a significantly persistent preoccupation with or attachment to objects or topics.

ECEA Rule 2.09(1)(a).

Here, the Record reflects that the MDT considered the reevaluation, including observations, formal assessments, and feedback from Parents in making its determination that Student was eligible as a Student with ASD. (FF #s 15, 17, 18, 20). Student's autism rating scales displayed behaviors consistent with ASD, impacting his communication, social interactions, and ability to manage changes in routine. (FF # 18). Additionally, Student's BASC-3 results showed many at risk or clinically significant behaviors, such as withdrawal, social skills, functional communication, atypicality, and adaptability, indicating that Student struggles with maintaining positive relationship and adapting to social situations. (FF # 20).

The FBA found that Student's behaviors could be understood as a combination of task avoidance, emotional regulation challenges, communication skill deficits, and a need for predictable structure and adult support. (FF # 23). Further, the FBA found that triggers for Student's behavior included non-preferred tasks, transitions, and perceived social or emotional concerns. (FF # 24). Accordingly, the CDE finds and concludes that District made the ASD eligibility determination consistent with the IDEA's procedures, the reevaluation, and other data in Student's record. District complied with the law.

<u>Conclusion to Allegation No. 6</u>: District reviewed and revised Student's IEP in May 2026 and again in August 2026 to include recommendations from Student's IEE and to address information about Student provided to, or by, the Parents, Student's anticipated needs, and other matters, consistent with 34 C.F.R. § 300.324(b)(1)(ii). District complied with the law.

Parents allege District did not review and revise Student's IEP from May 2026 to August 2026 to consider Parents' concerns or the results of Student's IEE. (FF #s).

I. <u>Legal Obligation to Review and Revise IEPs</u>

The IDEA requires a school to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). The IDEA does not promise a particular educational or functional outcome for a student with a disability, but it does provide a process for reviewing

an IEP to assess achievement and revising the program and services, as necessary, to address a lack of expected progress or changed needs. *Id.* at 400.

To that end, school districts have an affirmative duty to review and revise a student's IEP at least annually. 34 C.F.R. § 300.324(b). This obligation exists even when a student's needs have not changed or a student has made expected progress on annual goals. *Id.* The IDEA's procedures also contemplate that a student's IEP may need to be reviewed and revised more frequently to address any lack of expected progress toward the annual goals, the results of any reevaluation, "[i]nformation about the child provided to, or by, the parents," "[t]he child's anticipated needs," or other matters. *Id.*; *see Endrew F.*, 580 U.S. at 400. The U.S. Department of Education confirmed that an "IEP Team also may meet periodically throughout the course of the school year, if circumstances warrant it." *Questions and Answers on Endrew F.*, 71 IDELR 68 (EDU 2017). This includes monitoring and revising an IEP as necessary, particularly if appropriate progress is not occurring, to ensure the goals remain individualized and appropriately ambitious for the child. *Id.*

II. Review and Revision of the 2025 IEP

Here, the Record reflects that District reviewed and revised Student's IEP in May 2026 and then again in August 2026 after his IEE results were received. (FF #s 51, 64-65). On May 14, District held an eligibility meeting and an IEP meeting to complete Student's annual IEP review. (FF # 50). During the eligibility meeting, the MDT reviewed Student's reevaluation data and determined Student's continuing eligibility. (*Id*.). The MDT found Student eligible under both ASD and OHI (FF # 50). Next, Student's IEP Team reviewed and revised Student's IEP in light of the reevaluation. (FF # 51). Though Parents did not attend these meetings, the input they provided during the reevaluation—including through a parent interview, ratings scales, and prior private evaluations—was considered during the review and revision of Student's IEP. (FF #s 50-51).

Parents received the results of the IEE on May 29 and notified District on May 31. (FF # 57). Though District and Parents discussed convening the IEP Team over the summer, it was important to Parents that Private Evaluator attend. (FF # 58). So, on August 14, District convened the IEP Team, including Parents and Private Evaluator, to review Student's IEP in light of the IEE. (FF # 60). During the meeting, the IEP Team reviewed Student's reevaluation, as well as the IEE results. (*Id*.). Private Evaluator shared his recommendations. (*Id*.). The IEP Team noted substantial alignment between the data from the reevaluation and the IEE. (FF # 61).

On August 20, the MDT and IEP Team, including Parents, convened again to discuss Student's eligibility and finalize Student's IEP for the 2026-2027 school year. (FF # 63). The MDT determined that Student did not qualify for special education services under the criteria of SLD in written expression, but that he continued to qualify under OHI and ASD. (*Id*.). The IEP Team then went through each recommendation from the IEE Report and discussed how it did or did not align with Student's IEP. (FF # 64).

The IEP Team discussed which accommodations and services should be added to Student's IEP based on the IEE. (FF #s 64-65). For example, the IEP Team added 50 minutes of specialized writing instruction to the IEP, for a total of 80 minutes of monthly writing support outside of the general education classroom. (FF # 65). Additionally, the IEP Team revised Student's IEP to include accommodations for frequent check ins and extra time on test and classwork and that language about "hands on learning methods" would be added to the present levels for instructional strategies. (*Id*.). Student's IEP was completed on August 21, 2026. (FF # 66).

For these reasons, the CDE finds and concludes that District reviewed and revised Student's IEP in May 2026 and again in August 2026 to include recommendations from Student's IEE to address information about Student provided to, or by, the Parents, Student's anticipated needs, and other matters, consistent with 34 C.F.R. § 300.324(b)(1)(ii). District complied with the law.

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 23rd day of September, 2026.



Haley Solomon
State Complaints Officer

APPENDIX

Complaint, pages 1-29

- Exhibit 1: Compiled Supporting Documents

Response, pages 1-18

- Exhibit A: Student IEPs
- Exhibit B: Student BIPs
- Exhibit C: Notice of Meetings
- Exhibit D: Prior Written Notices
- Exhibit E: Audio Recording of May 14, 2026 IEP Meeting
- Exhibit E: IEP Meeting Minutes
- Exhibit F: Student Special Education Evaluations and IEE
- Exhibit G: Consent for Reevaluation
- Exhibit H: Parents' Requests for IEE
- Exhibit I: Student Record of Disciplinary History
- Exhibit J: Student's Schedule, Grade Reports, and Attendance Records
- Exhibit K: Student's 2025 and 2026 Progress Reports
- Exhibit L: District's 2025-2026 Calendar
- Exhibit M: District Policies and Procedures
- Exhibit N: Compiled Correspondence
- Exhibit O: District Contact Information
- Exhibit P: Facilitated Team Meeting Agenda
- Exhibit Q: Parent Input for May 2026 IEP
- Exhibit R: August 2026 IEP
- Exhibit S: August 20, 2026 Eligibility and IEP Meeting Recording
- Exhibit T: August 14, 2026 IEE Review Meeting Recording
- Exhibit U: August 14 Meeting Notes
- Exhibit V: August 20 Meeting Notes
- Exhibit W: Coordinator's Notes on IEP Amendments

Reply, pages 1-23

Telephone Interviews

- Parent: August 25, 2026
- Coordinator: August 25, 2026
- Director: August 25, 2026
- School Psychologist: August 26, 2026
- Case Manager: August 27, 2026
- Principal: August 28, 2026