

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

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**State Level Complaint 2025:519**  
**Colorado Department of Education**

**DECISION**

**INTRODUCTION**

On February 14, 2025, the parent (Parent) of a student (Student) involved in a previous state complaint against Denver Public Schools filed this state-level complaint (Complaint) against the Colorado Department of Education (CDE) alleging violations of Part B of the IDEA, the federal regulations, and CDE's state complaint procedures in its role as the state education agency (SEA) responsible for investigation of the previous state complaint. CDE assigned the current complaint to the undersigned investigator for independent investigation and issuance of a decision on behalf of CDE.

After review of the complaint in its entirety, the investigator accepted two issues for investigation. All remaining allegations were rejected due to the Parent's failure to allege a violation of IDEA or federal regulations subject to the jurisdiction of the state complaint system under 34 C.F.R. § 300.153(b). The Parent then filed two additional complaints with CDE on February 28, 2025 (SC 2025:526 and 2025:527), requesting reconsideration of CDE's decision to partially accept and partially reject issues for investigation in the current complaint (SC 2025:519) and request investigation of additional concerns. CDE assigned these complaints to the undersigned investigator for review. Each complaint was reviewed in its entirety to determine which, if any, issues were subject to CDE's jurisdiction in the state complaint system. One additional issue from SC 2025:526 was accepted for investigation, as it complied with the requirement to allege a violation of IDEA or the federal regulations with supporting facts. Due to the close proximity of all three letters of complaint, the new issue accepted from 2025:526 was combined with the current complaint, with a final decision to be issued on all three issues within the 60 day timeline associated with the current complaint avoiding any unnecessary delay.

With respect to Parent's concerns that were rejected and not accepted for investigation, it is important to note that Colorado does not have an appeal process in its state special education complaint system. The rejected concerns either failed to allege a violation of IDEA, federal regulations, or state law or requested review, reconsideration, and appeal of the first complaint decision (SC 2024:568).

According to the United States Department of Education, the federal regulations neither prohibit nor require the establishment of procedures to request reconsideration of a state complaint decision. *71 Federal Register 46607*. After issuance of the SEA's final decision, a party who disagrees with the decision has the right to request a due process hearing, provided that the subject of the state complaint involves an issue about which a due process hearing can be filed. *Id.*

Aligned with the federal regulations and its commentary, CDE's state complaint procedures articulate: "The decision of the SCO (State Complaints Officer) shall constitute a final action of CDE and is not subject to appeal." *State-Level Complaint Procedures*, p.4 (2024). Further, if either party disagrees with the decision, the remedy is to file a Due Process Complaint provided that the aggrieved party has the right to file a due process complaint pursuant to 34 C.F.R. §300.507(a) on the issue(s) with which the party disagrees. *Id.*

In this matter, the Parent had the opportunity to seek additional relief through the due process hearing system. The Parent opted, instead, to request reconsideration and appeal through the state complaint system. The requested relief is not available in the state complaint system and resulted in rejection of some of Parent's concerns.

### **RELEVANT TIME PERIOD**

CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after February 15, 2024. However, information prior to February 15, 2024 may have been considered to fully investigate all allegations.

### **SUMMARY OF COMPLAINT ALLEGATIONS**

The Complaint raises the following allegations subject to CDE's jurisdiction under 34 C.F.R. § 300.153(b) of the federal regulations implementing the IDEA.

1. Whether CDE exercised its general supervisory responsibility pursuant to 34 C.F.R. §300.149 to ensure that the special education complaint system was implemented consistent with the requirements of 34 C.F.R. §§ 300.151 through 300.153.
2. Whether CDE fulfilled its duty to review all relevant information and make an independent determination regarding compliance in complaint investigation SC 2024-568 as required by 34 C.F.R. § 300.152(a).
3. Whether CDE issued a final decision in State Complaint SC 2024-568 within the required 60 day time limit pursuant to the requirements of 34 C.F.R. § 300.152(a).

### **FINDINGS OF FACT**

After thorough and careful analysis of the entire record, CDE makes the following findings of fact:

#### **A. Background**

1. The Parent filed four related complaints within the last year:
  - a. First Complaint: SC 2024:568 against Denver Public Schools was deemed properly filed on June 14, 2024. *Acceptance Letter, June 17, 2024.* CDE accepted one issue

for investigation and declined to accept a second issue. *CDE Response*, p. 3. After investigation, CDE issued its final decision on August 13, 2024. *Final Decision*, p. 7; *CDE Response*, p. 10; *State Complaint Case Log 2024:568*.

- b. Second Complaint: SC 2025:519 against CDE was deemed properly filed on February 14, 2025. *Acceptance Letter, February 21, 2025*. CDE assigned this current Complaint to the undersigned independent complaint investigator. CDE initially accepted two issues for investigation. *Id.* A third issue from SC 2025:526 was combined with this current complaint as described below.
- c. Third Complaint: SC 2025:526 against CDE was deemed properly filed on February 28, 2025. *Partial Acceptance Letter, March 10, 2025*. CDE assigned this complaint to the undersigned independent investigator. *Id.* CDE accepted one issue for investigation and rejected all other issues based on the failure to allege a violation of the IDEA, implementing federal regulations or based on the Parent's request for reconsideration, amendment, or appeal of the First Complaint decision. *Id.* Based on the similarity of concerns, the single issue accepted for investigation was combined with the investigation in the Second Complaint. *Id.* As a result of combining issues from SC 2025:519 and SC 2025:526, a final decision on the accepted issue in the Third Complaint would be issued with the Second Complaint. *Id.* The Parent requested reconsideration of CDE's decision to reject concerns raised in her complaint. *Request for Reconsideration, March 13, 2025*. The Parent further requested that CDE reopen the First Complaint decision. *Id.* CDE declined the request for consideration. *Reconsideration Response, March 20, 2025*.
- d. Fourth Complaint: SC 2025:527 against CDE was received on February 28, 2025. *Parent Rejection Letter, March 10, 2025*. The Parent expressed concern about the Decision in the first complaint. *Complaint, February 28, 2025*. CDE assigned this complaint to the undersigned independent investigator. *Parent Rejection Letter, March 10, 2025*. CDE declined to investigate any of the concerns raised regarding the investigation in the First Complaint as they were beyond the scope of CDE's jurisdiction due to the finality of CDE's decision in that matter. *Id.* The Parent requested reconsideration of CDE's decision. *Request for Reconsideration, March 13, 2025*. CDE declined the request for reconsideration. *Reconsideration Response, March 20, 2025*.

#### **B. CDE's General Supervisory Responsibility for State Complaints**

- 2. The Parent's concerns in the current Complaint focus on CDE's investigation in the First Complaint, SC 2024:568. *Parent's Complaint, February 14, 2024*. In salient part, the parent alleges that CDE failed to ensure that the First Complaint was investigated according to CDE's procedures, thereby violating its general supervisory responsibility as the SEA. *Id.*, p.1-2.
- 3. CDE provided a copy of its State-Level Complaint Procedures (Procedures) adopted in 2024. *CDE Response, p. 14-17*. CDE's Procedures address the following:
  - a. Required content of the complaint;
  - b. Who may file a complaint;

- c. Written verification that a complete copy of the complaint and any attachments be hand delivered or mailed to the public agency;
- d. Options for filing the complaint;
- e. CDE's acceptance or rejection of the complaint;
- f. Complaint timelines for the district's response, the complainant's reply, the decision, and any extensions;
- g. Methods of investigation within CDE's discretion;
- h. Situations warranting immediate action;
- i. Availability of mediation;
- j. Issuance of the written decision; and
- k. The finality of CDE's decision with an explanation of the option to file a due process complaint.

*Id.*

- 4. CDE reported that upon receipt of a complaint, the assigned State Complaint Officer (SCO) reviews the content of the complaint for compliance with CDE's Procedures and follows up with the complainant to address any missed information or process. *CDE Interview*.
- 5. The assigned SCO is responsible for conducting the investigation, including the investigatory methods used to gather all relevant information. *State-Level Complaint Procedures*, p. 3-4.
- 6. As specified in the Procedures, a complaint shall be considered properly filed with CDE when it is received in the office of the SCO and satisfies all other filing requirements, including the requirement to verify that a copy of the complaint and all attachments were mailed or hand-delivered to the special education director of the IDEA Part B public agency serving the child. *State-Level Complaint Procedures*, p. 2.
- 7. The Procedures require that CDE issue a final decision within 60 days of receipt of a properly filed complaint, absent an extension of time permissible only in limited circumstances. *Id.*
- 8. In addition to the Procedures adopted by CDE, it is required that the SCO document more details about an investigation in the State Complaint Case Log, including important dates and activities of the SCO. *CDE Response*, p. 3; SC 2024:568 State Complaint Case Log.
- 9. According to CDE, it ensures that the state complaint process is implemented consistently by following the Procedures, training the SCO responsible for investigation, and supervising the SCO. *CDE Response*, p. 2. Supervisors review each SCO's work product and the investigatory process. CDE Leadership, including the Dispute Resolution Supervisor, Director of Special Education Guidance, and the Exceptional Student Services Unit (ESSU) Associate Commissioner, review each complaint decision before being issued. *Id.*, p. 2-3.
- 10. One notable distinction from the Procedures is CDE's practice of using a secure file transfer system as an alternative to mailing correspondence and a final decision to a complainant. This practice is used only with the consent of the complainant. *CDE Response*, p. 3; *CDE*

*Interview.* If consent is not obtained for use of the secure file transfer system, documents are transmitted pursuant to the Procedures. *Id.*

### **C. Investigation in SC 2024-568**

11. The Parent alleged that CDE's investigation was insufficient for the following reasons:
  - a. CDE did not complete an on-site investigation;
  - b. CDE should have more fully investigated the reasonableness of DPS's IEE cost criteria;
  - c. CDE should have undertaken a statewide investigation for systemic issues involving school districts' IEE cost criteria; and
  - d. CDE's decision in SC 2024:568 should be rescinded.

*Parent's Complaint, CDE's Response, p. 4.*

12. On June 17, 2024, CDE accepted the complaint for investigation, identifying one issue subject to CDE's jurisdiction.

Whether the District denied Student a Free Appropriate Public Education ("FAPE") because the District failed to 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 Parent's request for an IEE in May 2024, in violation of 34 C.F.R. § 300.502(b)(1)-(2).

*Acceptance Letter, June 17, 2024.* Other concerns expressed by the Parent were beyond the jurisdiction of CDE's State-Level Complaint System. *Id.*

13. According to CDE, the SCO's investigation included requesting relevant information from the district; reviewing the First Complaint, the school district's response and exhibits, and Parent's reply; interviewing Parent and the district's Special Education Instructional Specialist; and researching and analyzing applicable laws, regulations, guidance from the U.S. Department of Education, and prior CDE decisions. *CDE Response, p.3.*

14. The State Complaint Case Log includes the following relevant entries:

- a. June 27, 2024: CDE received the District's Response.
- b. July 8, 2024: CDE received the Parent's Reply.
- c. July 19, 2024: SCO interviewed the Parent and the district Special Education Instructional Specialist.

15. CDE issued a seven-page decision on the single accepted issue, including Findings of Fact with references to the records reviewed and interviews with the Parent and district, Conclusions of Law, legal analysis with the reasons for the decision, and the ultimate determination on the district's compliance. *SC 2024:568 Decision.*

16. The Parent expressed further concern regarding the statewide aspect of Independent Educational Evaluation cost criteria which was expressed in the First Complaint. The Parent

believes that if concerns are raised by her during the state complaint process, CDE must investigate all aspects of the issues raised. *Parent Interview*. The Parent supported her position with the recent Colorado Differentiated Monitoring and Support (DMS) Report issued by the Office of Special Education Programs (OSEP) within the United States Department of Education. *Id.*

17. Review of the DMS Report referenced by the Parent documents that CDE's state complaint system requirements exceeded the federal standard in two respects by requiring a complaint to include:

- a. Background information (including copies of all IEPs and other documents relevant to the complaint); and
- b. Facts on which the statement is based that identify persons, actions, and/or omissions that serve as the basis for the complaint, which is not required by 34 C.F.R. § 300.153(b).

*Colorado Differentiated Monitoring and Support Report, OSEP 2024*, p. 22. CDE revised its State-Level Complaint Procedures in 2024. *State-Level Complaint Procedures*, p.1.

#### **D. Timeliness of the Decision in SC 2024:568**

18. The Parent alleged that CDE failed to issue the final decision with 60 days. *Parent's SC 2025:526 Complaint*, p. 4; *Reply*, p. 3-4.

19. CDE received the Complaint on June 6, 2024. *CDE's Response*, p. 9; *State Complaint Case Log*. The SCO noted that the Parent indicated the Complaint was sent to CDE's address rather than the District's address on the Complaint form. *CDE Interview; Complaint*.

20. The following day, June 7, 2024, the SCO emailed the Parent to ask, in relevant part, whether the Parent consented to electronic communication and whether the Parent provided the Complaint to the District. Specifically, the SCO asked:

- a. CDE uses a Secure File Transfer Server to send sensitive documents securely via email. You would receive an email with a link to access and download the documents. **Are you willing to receive documents through CDE's Secure File Transfer Server?**
- b. **Have you provided a copy of the Complaint to the District yet?** If yes, please let me know how/when you provided the copy (i.e., via mail or hand deliver). If not, you need to hand-deliver or mail a copy of the Complaint to DPS.

(Emphasis in original.) *SCO Email, June 7, 2024; State Complaint Case Log*.

21. On June 8, 2024, the Parent responded via email as follows:

I am willing to use a secure file transfer server that CDE uses.

I have provided a copy of the complaint to DPS via certified mail. I missed the directions that I had to send the complaint to DPS as well as you so it did not go out until today 5/8/2024 (sic). I understand that you may need to delay any actions until the district has sufficient time to receive their copy. I am hoping that the special education director of the IDEA part B public agency at DPS is named "Exceptional Student Services." The copy sent to the LEA was sent to the director of this department.

*Parent Email Response, June 8, 2024.*

22. The SCO replied on June 10, 2024 stating, “Thank you for the updated information. CDE will consider your complaint received when the District receives your certified mail. Will you please let me know when it shows as delivered? I will ask the District to let me know as well.” *SCO Email, June 10, 2024; State Complaint Case Log.*
23. The SCO provided a courtesy copy of the Parent’s Complaint to the District on June 10, 2024. *State Complaint Case Log.*
24. The District received a copy of the Parent’s Complaint via mail on June 14, 2025. *CDE Response*, p. 10; *State Complaint Case Log.* (Although the Parent disputes this date, the Parent has not provided any tracking information to indicate a different date of receipt by the District.)
25. CDE determined the Complaint was properly filed on June 14, 2024. *Acceptance Letter, June 17, 2024.* In the Acceptance Letter, CDE informed the Parent that the written decision would be issued by August 13, 2024. *Id.*
26. On August 13, 2024, the SCO sent the Decision to the Parent and the District at 2:00 p.m. using the Secure File Transfer (SFT) system. *CDE Response*, p. 10; *State Complaint Case Log.* CDE uses the SFT system, in part, because delivery confirmation is provided to the sender. *CDE Interview.* The District received and accessed the Decision on August 13, 2024. *CDE Response*, p. 10; *State Complaint Case Log.*
27. At 6:05 p.m., the SCO received notification that delivery to the Parent was delayed due to an issue with the SFT system. *Id.*
28. At 6:21 p.m., the SCO forwarded the notification to the Parent, adding: “Please see below. I sent the final decision to you today at 2:00 but for some reason it has been delayed. I will work on sending it to you another way but wanted to let you know of this temporary problem.” *Id.*
29. The following day, on August 14, 2024, the SCO unsuccessfully attempted to resend the Decision through SFT. *Id.* Using a different electronic system, Syncplicity, the SCO shared a folder with the Parent containing the Decision and other correspondence. *CDE Response*, p. 11; *State Complaint Case Log.* The SCO emailed the Parent to explain Syncplicity and the shared file, stating:

I set up a shared folder for you through Syncplicity, an alternative file-sharing service. You should have received a separate email from Syncplicity with a link to the folder. **Please respond to this email to let me know that you have been able to access the decision and accompanying letter.** If this does not work, I will FedEx the decision to you. I apologize for the inconvenience and appreciate your patience.

(Emphasis in original.). *CDE Response*, p. 11; *State Complaint Case Log.*
30. By August 16, the Parent had not responded to the SCO’s email. *CDE Interview; CDE Response*, p. 11; *State Complaint Case Log.* Due to the Parent’s lack of response to the August 14, 2024 email regarding the shared folder, CDE sent the Parent a copy of the Decision via FedEx Priority Overnight Delivery, with delivery expected on Monday, August 19,

2024. *CDE Interview; FedEx Tracking Receipt; CDE Response*, p. 11; *State Complaint Case Log*.

31. On August 20, FedEx delivered the Decision to the Parent. *CDE Interview; FedEx Tracking Receipt; CDE Response*, p. 11; *State Complaint Case Log*.

32. The Parent indicated that she was able to access the electronic copy of the Decision sent through SFT several days after it was sent. When asked whether she was able to access the Syncplicity shared folder, the Parent could not recall. *Parent Interview*.

### **CONCLUSIONS OF LAW**

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

**Conclusion as to Allegation #1: Whether CDE exercised its general supervisory responsibility pursuant to 34 C.F.R. §300.149 to ensure that the special education complaint system was implemented consistent with the requirements of 34 C.F.R. §§ 300.151 through 300.153.**

The federal regulations implementing the IDEA require each state to have a system to resolve complaints filed pursuant to 34 C.F.R. §§ 300.151 through 300.153. In fulfillment of this mandate, states are required to adopt procedures to resolve any complaint, including a complaint filed by an organization or an individual from another state, that meets the requirements of 34 C.F.R. § 300.153. *34 C.F.R. § 300.151(a)*.

The state must include mandatory information in its procedures, including:

- A time limit of 60 days after a complaint is filed under § 300.153 to—
  - Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary;
  - Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
  - Provide the public agency with the opportunity to respond to the complaint, including, at a minimum—
    - At the discretion of the public agency, a proposal to resolve the complaint; and
    - An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with § 300.506;
  - Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and
  - Issue a written decision to the complainant that addresses each allegation in the complaint and contains—
    - Findings of fact and conclusions; and
    - The reasons for the SEA's final decision.

See *34 C.F.R. § 300.152*.

In 2013, the United States Department of Education, Office of Special Education Programs (OSEP), issued guidance on additional requirements for state complaint procedures. The



procedures must include criteria the state uses for determining when the State considers a state complaint to be received. *Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act*, Question B14 (2013).

CDE's State-Level Complaint Procedures include all required content consistent with the federal regulations and include additional mandatory procedures applicable in Colorado. For example, CDE's procedures contain explicit timelines for acceptance of a complaint, a public agency's response, and the complainants reply. The Procedures also require written verification that a complete copy of the Complaint and any attachments have been mailed or hand-delivered to the special education director of the IDEA Part B public agency. The procedures state that the Complaint shall be considered properly filed with the CDE when it is received in the office of the SCO and satisfies all filing requirements, including a copy to the public agency.

OSEP recognizes that the minimum State complaint procedures in § 300.152 are intended to be broad in recognition of the fact that states operate differently and standards appropriate to one state may not be appropriate in another state. The standards to be used in conducting investigations (including on-site investigations) are best determined by the state. *71 Federal Register 46602 (2006)*. Colorado has determined its standards through its adopted Procedures. Additional requirements are permissible if potential complainants are on notice of the requirements, and those additional requirements don't limit or diminish the parent's or other complainant's ability to present a state complaint and obtain timely resolution of the issues presented. *Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act*, Question B15 (2013).

CDE developed a practice outside of its State-Level Complaint Procedures permitting complainants to consent to secure, electronic receipt of correspondence and decisions. This practice departed from CDE's State-Level Complaint Procedures for delivery of CDE communications. However, as clearly stated and evidenced in the First Complaint, the departure from its own Procedure (rather than a regulatory or statutory requirement) was used only with consent and did not serve to diminish the parent's or other complainant's ability to present a state complaint and obtain timely resolution of the issues presented. To the contrary, permitting electronic transmission of communications by CDE would be a benefit to complainants that consent to its use. If a complainant did not offer consent, CDE Procedures would control.

After thorough review of all relevant information, there is no indication in the record that CDE failed to ensure that its state complaint system was implemented consistent with the requirements of 34 C.F.R. §§ 300.151 through 300.153. On behalf CDE, this independent investigator finds and concludes that CDE exercised its general supervisory responsibility pursuant to 34 C.F.R. §300.149 to ensure that the special education complaint system was implemented consistent with the requirements of 34 C.F.R. §§ 300.151 through 300.153.

**Conclusion as to Allegation #2: Whether CDE fulfilled its duty to review all relevant information and make an independent determination regarding compliance in complaint investigation SC 2024-568 as required by 34 C.F.R. § 300.152(a).**

Every state is required to resolve any complaint that meets the requirements of 34 C.F.R. § 300.153. *34 C.F.R. § 300.151(a)*. In SC 2024:568, one allegation met the requirements of 34 C.F.R. § 300.153(b), permitting CDE to accept jurisdiction of that matter:

Whether the District denied Student a Free Appropriate Public Education (“FAPE”) because the District failed to 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 Parent’s request for an IEE in May 2024, in violation of 34 C.F.R. § 300.502(b)(1)-(2).

CDE previously determined that it had no jurisdiction to address other concerns expressed by the Parent in SC 2024:568 because the other concerns did not meet the requirements of 34 C.F.R. § 300.153, namely the requirement that the complaint must include a statement that a public agency has violated a requirement of Part B of the IDEA or federal regulations and the facts upon which the statement is based. As a result, only this single issue triggered CDE’s mandate to review all relevant information and make an independent determination regarding compliance with respect to that single issue only.

OSEP opined that it believes the SEA is in the best position, and should have the flexibility, to determine what information is necessary to resolve a complaint, based on the facts and circumstances of the individual case. *71 Federal Register 46603 (2006)*.

On-site investigations are not required. OSEP advised that 34 C.F.R. § 300.152(a)(1) is sufficient to ensure that an independent on-site investigation is carried out if the SEA determines that such an investigation is necessary to resolve a complaint. *71 Federal Register 46602 (2006)*. OSEP definitively addressed this question in the 2013 Question and Answer document.

Question B-20: Must an SEA conduct an independent on-site investigation for every complaint filed?

Answer: No. An SEA is required to conduct an independent on-site investigation only if it determines that such an investigation is necessary. 34 CFR § 300.152(a)(1). The standards to be used in determining whether to conduct an on-site investigation are left to each State. If the SEA determines that there is no need to conduct an independent on-site investigation, the SEA must comply with all other applicable requirements in 34 CFR § 300.152(a) and (b) in resolving the complaint.

*Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act*, Question B20 (2013).

In SC 2024:568, CDE received and reviewed the Complaint, the District’s response, and the Parent’s reply. The SCO conducted interviews with District staff and the Parent, analyzed relevant and applicable laws, regulations, and case law. CDE reviewed all relevant information with respect the single issue accepted for investigation. There was no need for CDE to conduct an on-site investigation or consider other information regarding Parent concerns that did not meet the requirement of 34 C.F.R. § 300.153(b) that were not accepted for investigation in the First Complaint.

The Parent’s belief that the 2024 DMS report that required CDE to address all concerns raised by a complainant regardless of whether the requirements of 34 C.F.R. § 300.153 are met is

unfounded. The DMS report concluded that CDE exceeded federal requirements for state complaints in two ways, but neither of those findings in the DMS report would negate the separate regulatory requirement for complaints to allege a violation of law and provide the facts upon which the statement is based consistent with 34 C.F.R. § 300.153. CDE was obligated to address the allegations that met that regulatory requirements.

On behalf CDE, this independent investigator finds and concludes that CDE reviewed all relevant information and made an independent determination regarding compliance consistent with 34 C.F.R. § 300.152(a).

**Conclusion as to Allegation #3: Whether CDE issued a final decision in State Complaint SC2024-568 within the required 60 day time limit pursuant to the requirements of 34 C.F.R. § 300.152(a).**

Two points of confusion arose regarding the timeliness of CDE's final decision. The first point centers on the Parent's disagreement with CDE delaying the properly filed date until the District received the Parent's complaint. The SCO reviewed the Complaint and observed that the Parent erroneously provided CDE's address rather than the District's address when documenting where the District's copy of the complaint was sent. It was reasonable at this point for the SCO to verify whether the Parent sent a copy of the Complaint to the District as required. The Complainant confirmed she had "missed the directions" requiring that a copy be sent to the District. The Parent indicated that she sent a copy to the District on June 8, 2024 via certified mail, but did not provide a tracking number. Although tracking numbers are not required under the federal regulations or CDE's procedures, having that number would have provided certainty when a copy of the Complaint was sent to the District. Without that information, and based on the earlier address confusion, it was reasonable of CDE to confirm whether the Parent sent and the District received a copy of the Complaint prior to determining whether the Complaint was properly filed. This approach is permitted by OSEP as advised in 2013:

An SEA's complaint procedures should address how the complainant's failure to provide the required copy to the LEA or public agency serving the child will affect the initiation of the complaint resolution and/or the time limit for completing the complaint resolution.

For example, an SEA could adopt procedures that include advising the complainant in writing that the complaint resolution will not proceed and the 60-day time limit will not begin until the complainant provides the LEA or public agency serving the child with a copy of the complaint as required by the regulations. 71 FR 46606 (August 14, 2006).

*Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act*, Question B17 (2013).

The District ultimately received a copy of the Complaint from the Parent on June 14, 2024, making the due date for the final decision on August 13, 2024. This is the date that CDE used to calculate the 60 day timeline and due date for the final decision as specified in the Acceptance Letter. Although the Complainant objects, at least in part because the SCO sent the District a courtesy

copy to the District on June 10, 2024, CDE was within its authority to abide by the regulations and its Procedures, requiring the Parent to send a copy of the Complaint to the District.

The second point of confusion comes from the unsuccessful use of the secure file transfer system to issue the final decision. Although the Parent takes issue with the use of the system, the Parent offered her consent to receive documents, including the final decision, in that manner.

The Parent also objects to the further delay in sending the final decision by FedEx on August 16, 2024. The delay in the Parent's receipt of a printed copy of the final decision does not negate the fact that CDE issued the decision on August 13, 2024, within the 60 day time limit consistent with 34 C.F.R. § 300.152(a). A close review of 34 C.F.R. § 300.152(a) mandates that CDE issue a written decision to the complainant within 60 days after the complaint is filed. CDE complied with this regulation.

Even if CDE had relied solely on FedEx or certified mail as the only method of dissemination, the final decision would have been sent on August 13, 2024 and received some time after the 60 day due date. The regulations and the Procedures are silent on when the Parent would actually receive a copy of the final decision when sent by mail or FedEx. Receipt of the decision is not indicative of compliance with the Procedures and the federal regulation. Compliance is tied to the date of issuance.

On behalf CDE, this independent investigator finds and concludes that CDE issued a final decision within 60 days consistent with 34 C.F.R. § 300.152(a)(5).

### **REMEDIES**

On behalf of CDE, the independent investigator concludes that CDE complied with the requirements of IDEA and implementing federal regulations. Therefore, no remedies are ordered.

### **CONCLUSION**

The Decision of the CDE is final and is not subject to appeal. *CDE State-Level Complaint Procedures*, ¶13. If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *CDE State-Level Complaint Procedures*, ¶13; see also 34 C.F.R. § 300.507(a); 71 Fed. Reg. 156, 46607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned independent investigator.

Dated this 15<sup>th</sup> day of April 2025.



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Lenore Knudtson  
CDE appointed independent investigator

A copy of this final decision was sent by secure electronic transfer to the Parent and CDE. A copy of the final decision was also sent to the Parent via certified mail on this date.