

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

State Complaint SC2025-564
Douglas County School District

DECISION

INTRODUCTION

On May 7, 2025, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against Douglas County School District (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified one allegation subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

The CDE’s goal in state complaint investigations is to improve outcomes for students with disabilities and promote positive parent-school partnerships. A written final 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 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 May 7, 2024. Information prior to May 7, 2024 may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

The Complaint raises the following allegation subject to the CDE’s jurisdiction under 34 C.F.R. § 300.153(b)² of the IDEA:

1. District did not fully implement Student’s Individualized Education Program (“IEP”) from May 7, 2024 through the end of the 2024-2025 school year because it:

¹ The IDEA is codified at 20 U.S.C. § 1400 *et seq.* The corresponding IDEA regulations are found at 34 C.F.R. § 300.1 *et seq.* The Exceptional Children’s Education Act (“ECEA”) governs IDEA implementation in Colorado.

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

- a. Did not make the IEP accessible to teachers or service providers responsible for its implementation, as required by 34 C.F.R. § 300.323(d); and
- b. Did not educate Student in the least restrictive environment listed in the IEP—specifically by removing Student from the general education setting—as required by 34 C.F.R. §§ 300.320(a)(5), 300.323(c).

FINDINGS OF FACT

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

A. Background

1. Student is eight years old and, during the 2024-2025 school year, attended second grade at two District elementary schools (“School 1” and “School 2”). *Response*, pp. 1-2. She attended School 1 from the beginning of the 2024-2025 school year until January 31, 2025. *Id.* at p. 2. From January 31, 2024 until April 18, 2025, Parents withheld Student from school. *Id.* Student attended School 2 from April 18, 2025, until the end of the 2024-2025 school year. *Id.*
2. Student qualifies for special education and related services under the disability categories of Multiple Disabilities, Intellectual Disability, Other Health Impairment, Orthopedic Impairment and Speech or Language Impairment. *Exhibit A*, p. 2.
3. Student is described as having a great spirit. *Interview with Parents*. She is an “absolute joy,” “passionate,” and “fiery.” *Interview with Student’s special education teacher (“Special Education Teacher”)*. She understands grit, perseverance, and self-belief. *Exhibit A*, p. 2. Adults and peers alike love being around her. *Id.*
4. This investigation involves the implementation of an IEP dated February 23, 2024 (“February 2024 IEP”). *Response*, p. 2; *see Exhibit A*.

B. February 2024 IEP

5. To begin the 2024-2025 school year, the February 2024 IEP was in effect. *Response*, p. 2; *Exhibit A*, pp. 24-44.
6. The Present Levels of Academic Achievement and Functional Performance section describes Student’s work on expressive language, physical motor skills, pre-writing strokes, and increased independence for self-care skills. *Id.* at pp. 26-28.
7. The Student Needs and Impact of Disability section documents that Student’s disability “impact her ability to make progress towards state standards integrated into the general

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

education curriculum.” *Id.* at p. 30. Specifically, her disability impacts “her ability to participate in age level fine and visual motor activities, attend to classroom activities, follow classroom directions, use materials appropriately, and communicate effectively with teachers and peers.” *Id.*

8. According to the Parental Input section, Parent “finds value in the social exchanges [Student] has with gen ed peers.” *Id.*
9. Per the Consideration of Special Factors section, Student has unique communication needs, needs assistive technology devices or services, requires special transportation, and requires a health plan. *Id.* at p. 31.
10. The February 2024 IEP includes nine annual goals across the areas of reading, math, writing, social-emotional wellness, language, and physical motor. *Id.* at pp. 31-38.
11. The February 2024 IEP includes nine accommodations: physical mobility and transitions in all settings (ex: helping Student walk with hand hold assist in classroom); access to changing table/diapering area; access to and opportunities to use the toilet daily (with adaptive equipment as appropriate); and, when Student’s private duty nurse does not attend school with her, g-tube feedings and diapering will be done by a trained staff member with-in the school. *Id.* at p. 38.
12. The February 2024 IEP requires the following special education and related services:
 - a. 3,710 minutes per month of SSN direct support while accompanied by her general education peers.
 - b. 3,710 minutes per month of direct support outside the general education setting.
 - c. 200 minutes per month of direct speech-language intervention provided by an SLP or SLPA outside of the general education classroom setting.
 - d. 90 minutes per month of direct occupational therapy services outside of the general education classroom to support the motor components of her IEP goals.
 - e. 90 minutes of direct physical therapy services outside the general education classroom to work on physical motor goals.

Id. at p. 41.

13. Relevant to this investigation, Student’s least restrictive environment (“LRE”) is the general education class 40% to 79% of the time. *Id.* at p. 42.

C. District’s Policies, Practices, and Procedures: IEP Implementation

14. District is responsible for providing a FAPE in the LRE. *Interview with District's special education director ("Director")*. Implementation of the LRE in a child's IEP is the responsibility of each individual IEP team and the child's service providers. *Id.*
15. The expectation in District is that a child's special education teacher provides general education teachers and other relevant staff with a snapshot of the IEP. *Id.* This snapshot lives in a system called Enrich. *Id.* This system is being updated for the 2025-2026 school year. *Id.* Director has an additional expectation that special education teachers have a conversation with the general education teachers and relevant staff about a child's IEP beyond just placing the snapshot in their mailbox. *Id.*
16. Special education coordinators also meet with special education teachers on a regular basis. *Id.* The expectation is that the team members meet twice a month. *Id.* In practice, the special education coordinators are on site at schools more frequently than twice a month. *Id.*
17. Director oversees professional development and other training related to service logs and implementation. *Id.* Director also sends newsletters every two weeks related to these topics. *Id.*
18. District also has a policy titled "Programs for Students with Disabilities." *Exhibit I*, p. 1-2. It notes that "[i]n accordance with federal and state laws mandating education and related educational services to individuals with disabilities, the District recognizes its obligation to provide education opportunities and services to all children with disabilities, as required by applicable law, enabling them to achieve their full potential to lead fulfilling and productive lives." *Id.* at p. 1. It adds that "in keeping with accepted educational principles and applicable law, children with disabilities shall be educated in the least restrictive environment." *Id.*

D. Accessibility of the February 2024 IEP to Teachers and Others

19. Student began second grade at School 1 in August 2024. *Exhibit A*, p. 1; *Exhibit H*, p. 1.
20. Special Education Teacher was Student's case manager to begin the 2024-2025 school year. *Interview with Special Education Teacher*. Special Education Teacher provided snapshots of the February 2024 IEP to Student's teachers and relevant staff at the beginning of the school year. *Interviews with Special Education Teacher and School 1's principal ("Principal")*; *Exhibit M*, pp. 1-11. Additionally, Special Education Teacher met with relevant teachers and staff to review Student's IEP and schedule. *Interview with Special Education Teacher*.

E. February 2024 IEP Implementation: LRE from August 2024 - January 2025

21. The February 2024 IEP requires that Student participate in general education 40% to 79% of the time. *Exhibit A*, p. 42.
22. Student's documented class schedule for the week includes: (a) "Recess" for 20 min/day; (b) "Lunch/Recess" for 50 min/day; (c) "Specials" for 45 min/day; (d) "Library" for 20-25

min/week; (e) “STEAM” (science, technology, engineering, arts, and math) for 20-25 min/week, (f) “Start of Day” for 45 min/day and (g) “Other class inclusion time” for 20 min/day. *Exhibit E*. p. 20. This schedule equates to 3,760 minutes per month. *Id.*

23. Student’s documented “Feeding and Toileting Schedule” includes feedings, water, “pull-up” changes, or medication administration at the following times each day: 9:00 a.m., 9:15 a.m., 9:30 a.m., 9:45 a.m., 11:00 a.m., 11:15 a.m., 11:30 a.m., 12:15 p.m., 12:30 p.m., 12:45 p.m., 1:00 p.m., 1:15 p.m., 2:00 p.m., 2:15 p.m., 3:00 p.m., and 3:30 p.m. *Id.* at p. 19. Occasionally, assistance with one of these activities of daily living would run long and impact Student’s time in the general education environment. *Interview with Special Education Teacher*. On such occasions, she would then participate in another general education classroom setting, such as joining another general education specials class that day. *Id.*

Start of Day

24. The “Start of the Day” as defined in Student’s class schedule was time in the general education classroom’s morning activities. *Interview with Special Education Teacher*. “Start of the Day” time began as soon as Student stepped off the bus in the morning. *Id.*
25. Parents were concerned Student was not receiving the 45 minutes per day Student’s schedule included. *Interview with Parents*. During an October 2024 parent-teacher conference, Student’s general education teacher (“General Education Teacher”) said Student was in her class from 9:00 a.m. - 9:30 a.m. in the morning. *Interviews with Parents and Principal; Exhibit J*, pp. 44-45. On Wednesdays, she said Student stays in her classroom a little longer in the morning. *Id.* General Education Teacher also said she does not see Student the rest of the day. *Id.*
26. During a February 2025 IEP meeting at which the February 2024 was reviewed and revised (“February 2025 IEP”), Parents again asked General Education Teacher whether she only saw Student in the mornings from 9:00 a.m. - 9:30 a.m. *Interviews with Principal and Parents. Exhibit D*, p. 4. General Education Teacher said “yes.” *Interviews with Parents and Principal*.
27. Principal followed up with General Education Teacher about her comments and response. *Interview with Principal*. General Education Teacher reported she drops her students off outside the specials classrooms. *Id.* The respective specials teachers are with the students in their individual classrooms for that class period. *Id.* General Education Teacher said she is aware that Student was at specials and recess with peers. *Id.* She does not personally have Student in her classroom during those periods, as she does not have any of her students in her classroom while they are at specials. *Id.*
28. Special Education Teacher maintained a detailed daily schedule, separate from the schedules described above, for each student he oversaw in the SSN room, including Student. *Exhibit O*, pp. 3-82. Student’s daily schedule noted this general education time as beginning at 8:45 a.m. every day. *Id.* at pp. 3-5, 19-21, 35-37, 51-53, 67-69. From Monday through Thursday, Student

remained in the general education room and then transitioned to the SSN room between 9:20 a.m. - 9:45 a.m. *Id.* at pp. 3-5, 19-21, 35-37, 51-53. On Friday, Student's general education time in the morning occurred from 8:45 a.m. - 9:20 a.m., sometimes overlapping with STEAM. *Id.* at pp. 68-69.

29. General Education Teacher noted in the Present Levels of Educational Performance Summary in Student's February 2025 IEP that Student "is a valued and cherished member of our class. Her excitement and engagement shine through every day. She loves watching our morning meeting videos and actively participates in Wayfinder Wednesdays." *Exhibit A*, p. 3.
30. Meeting notes from the February 2025 IEP meeting reflect that General Education Teacher shared Student participates daily in the morning meeting, SEL lesson, and the start of the math lesson. *Exhibit D*, p. 4.
31. Based on these findings—including the detailed documentation of Student's schedule and her participation in that schedule—the CDE finds that Student attended "Start of Day" time at School 1 from the beginning of the 2024-2025 school year until Parents withheld her from school starting on January 31, 2025.

Recess

32. Parents' concerns that Student was not attending recess arose from peers attesting Student is not at recess and from General Education Teacher's comment from parent-teacher conferences that she only sees her in the mornings. *Exhibit D*, p. 1; *Interview with Parents*.
33. Student's daily schedule shows Student attended recess with her general education peers every day from 10:40 a.m. -11:00 a.m. *Exhibit O*. pp. 7, 23, 39, 55, 71.
34. Special Education Teacher would sometimes observe Student at recess. *Interview with Special Education Teacher*. One observation he recalled was from earlier in the 2024-2025 school year. *Id.* Student had just begun to walk on her own. *Id.* He recalls Student always smiling and the other students are "drawn to her." *Id.* For instance, at recess, friends will come up and say hello. *Id.* They often play tag for a few minutes. *Id.* The playground has a swing with a harness that goes over the top of one's body. *Id.* She would often play on the swing or walk around (which she loves to do). *Id. Id.* Special Education Teacher said that Student had access to lunch and recess every day unless there was a complication with her feeding. *Id.*
35. The February 2025 IEP includes a detailed description of Student at recess with her general education peers on January 29, 2025, which corroborates Special Education Teacher's observations. *Exhibit A*, pp. 3. For instance, it indicates that "[Student] exited the school building and entered the black top area with other peers. She is accompanied by an EA. The EA is holding [Student]'s hand at first, in a congested area, but [she] is mostly walking on her own." *Id.* It adds that "[Student] receives hugs from two peers" and that "[she] continues

walking toward the main playground area, EA off to the side a few steps.” *Id.* It further details Student playing “tag” with a peer, exchanging hugs with peers, and swinging. *Id.*

36. Principal also recalled seeing Student at recess. *Interview with Principal.* Student preferred the asphalt area over the bark area at recess. *Id.* Student would often play on the adaptive swing and other children would come play with her. *Id.*
37. General Education Teacher, per the February 2025 IEP, recalled that “[d]uring recess, she is surrounded by caring classmates who check in on her, interact with her, and enjoy walking with her. Her presence brings warmth and connection to our classroom community, and we are so grateful to have her as part of our class.” *Exhibit A*, p. 3.
38. Based on these findings—including the detailed, documented descriptions of Student’s participation in recess by multiple School 1 staff—the CDE finds that Student participated in recess at School 1 from the beginning of the 2024-2025 school year until Parents withheld her from school starting on January 31, 2025.

Lunch/Recess

39. Parents’ concerns with Student’s participation in lunch arose around October 2024 when they were contacted by the parent of another student. *Interview with Parents.* This peer received a “reward lunch”—lunch with the teacher and a peer of her choice—in her general education classroom. *Id.* The peer wanted to have lunch with Student. *Id.* Parents were told the peer and General Education Teacher walked to the SSN room to ask Student to eat lunch with them. *Id.* Special Education Teacher did not allow Student to attend the “reward lunch.” *Id.* When Parents raised this concern with General Education Teacher at parent-teacher conferences, General Education Teacher confirmed that this occurred. *Id.*
40. Special Education Teacher recalled this incident in October when Student was not able to participate in the “reward lunch.” *Interview with Special Education Teacher.* Typically, General Education Teacher would communicate to Special Education Teacher the possibility of a schedule shift. *Id.* On this day, no advanced communication was given. *Id.* Though Student was not able to participate in the “reward lunch” this day, she still participated in lunch with her general education peers. *Id.*
41. Following parent-teacher conferences, Student participated in the “reward lunch” at points between October 2024 and January 2025. *Id.*; *Interview with Parents.*
42. Parents became aware of a second time Student was not able to participate in “reward lunch” in January 2025. *Interview with Parents.* On February 13, 2025, Parents, special education coordinator for School 1 (“Special Education Coordinator 1”), Principal, and Special Education Teacher met to discuss this concern. *Exhibit D*, p. 1. Principal noted she would follow up to ensure Student is attending lunch with peers. *Exhibit J*, p. 45.

43. Principal's understanding is this specific "reward lunch" in January 2025 was either during a feeding time or when the SSN had an instructional staff shortage. *Interview with Principal*. Principal informed Parent that Student would have access to "reward lunch." *Id.*
44. According to Special Education Teacher's daily schedule, Student attended lunch/recess with her general education peers every day from 1:00 p.m. - 1:55 p.m. *Exhibit O*, pp. 12-13, 28-29, 44-45, 60-61, 76-77. The two days on which Student was not able to participate in the "reward lunch" were isolated incidents, and even on those days Student still participated in lunch with her peers. *Interviews with Special Education Teacher and Principal*. For instance, Principal observed Student at recess and lunch often, describing an educational assistant was always present with Student. *Interview with Principal*.
45. Based on these findings—including the detailed documentation of Student's schedule and her participation in that schedule, along with credible observations of her participation—the CDE finds that Student attended lunch/recess consistent with the LRE described in the February 2024 IEP from the beginning of the 2024-2025 school year until Parents withheld her from school starting on January 31, 2025.

Specials

46. Parents raised concerns about specials, but did not detail a specific incident that led them to be concerned with Student's participation. *Interview with Parents*.
47. Per Student's daily schedule, Student attended specials for 45 minutes every day from 2:50 p.m. - 3:35 p.m. *Exhibit O*, pp. 16, 32, 48, 64, 80.
48. Student's time with specials was rarely, if ever, interrupted as it fell later in the day than most of her feeding or water schedules. *Interview with Special Education Teacher*. Specials included music, art, physical education, and science. *Id.*
49. Principal offered observations and comments from Student's specials teachers. *Interview with Principal*. Student loves music class: she would "groove to the music" even up on stage and sometimes would "squeal with delight." *Id.* In physical education, the teacher was good at adapting and modifying the games, so Student had access. *Id.* Peers would make sure she got the ball. *Id.* When Student was in her wheelchair, the other students would assist her in moving around. *Id.* Principal also has personally walked through the gym often and witnessed Student actively participating. *Id.* In Science class, Student has a harder time actively engaging. *Id.* Principal observed Special Education Teacher in Science working with Student. *Id.* And in art class, Principal could recall observing Student sitting and feeling the brush. *Id.*
50. Written documentation corroborates Student's participation in music and physical education. *Exhibit E*, p. 17. In Music, her 2024-2025 review states "[Student] is a joy to have in music! She participates well and always has a smile on her face." *Id.* In physical education, Student's 2024-2025 review notes that Student met expectations. *Id.*

51. Meeting notes from the February 2025 IEP meeting show that Principal also confirmed Student's attendance in specials classes with an educational assistant when Parents raised concerns. *Exhibit D*, p. 4.
52. Based on these findings—including the detailed documentation of Student's schedule and her participation in that schedule, along with credible observations of her participation—the CDE finds Student attended specials consistent with the LRE described in the February 2024 IEP from the beginning of the 2024-2025 school year until Parents withheld her from school starting on January 31, 2025.

Library

53. Parents were concerned that Student was not attending library with her general education peers. *Interview with Parents*. This concern arose from the comment General Education Teacher made at parent-teacher conferences and because Student had not taken home a library book during the 2024-2025 school year. *Id.*; *Exhibit J*, p. 45. Student had taken home library books in the past. *Interview with Parents*; *Exhibit J*, p. 45.
54. According to Student's daily schedule, she attended library on Fridays from 2:00 p.m. -2:30 p.m. *Exhibit O*, pp. 77-78. Student would sometimes attend library with a different class but was still in library every week with general education peers. *Interview with Principal*. The library is in the middle of the school and Principal observed Student there every week with either Special Education Teacher or one of the educational assistants. *Id.*
55. Student's participation in the library was occasionally impacted by the feeding schedule. *Interview with Special Education Teacher*. Per her daily feeding schedule, she received water at 2:00 p.m. and had a pull up change at 2:15 p.m. *Exhibit O*, pp. 77-78. Special Education Teacher estimated this occurred approximately once a month. *Interview with Special Education Teacher*. When this happened, Student would attend library with a first grade class. *Id.*
56. During the February 2025 IEP meeting, Student's speech language pathologist noted that she saw Student in library once with another class. *Exhibit D*, p. 4.
57. Based on these findings—including the detailed documentation of Student's schedule and her participation in that schedule, along with credible observations of her participation—the CDE finds Student attended the library consistent with the LRE described in the February 2024 IEP from the beginning of the 2024-2025 school year until Parents withheld her from school starting on January 31, 2025.

Other Class Inclusion Time

58. "Other class inclusion time" was flex time with general education peers that occurred each day. *Interview with Special Education Teacher*.

59. Parents were concerned about Student’s participation in this time because they did not receive an answer about what this looked like or who she was with during this time, though they did not identify a specific incident that drove this concern. *Reply*, p. 2.
60. Per her daily schedule, Student’s “other class inclusion time” occurred between 11:00 a.m. - 1:00 p.m. *Exhibit O*, pp. 8-11, 24-27, 40-43, 56-59, 72-75. There was additional flex time built in on Tuesday through Thursday from 2:00 p.m. – 2:30 p.m. and on Friday from 2:30 p.m. to 2:50 p.m. *Id.* at pp. 30, 46, 62, 79.
61. During this time, the educational assistant working with Student would get to choose which environment to work in. *Interview with Special Education Teacher*. They would sometimes work on an IEP goal in a general education setting or, for example, go with another class to the art room. *Id.*
62. Principal discussed the “Other Class Inclusion Time” with Special Education Teacher after Parent’s raised concerns. *Interview with Principal*. During that conversation, Special Education Teacher noted this most often occurred later in the day during the 2:00 p.m. to 2:30 p.m. time slot on Student’s schedule. *Id.*
63. Based on these findings—including the detailed documentation of Student’s schedule and her participation in that schedule, along with credible observations of her participation—the CDE finds Student attended “Other Class Inclusion Time” with general education peers from the beginning of the 2024-2025 school year until Parents withheld her from school starting on January 31, 2025.

F. Student’s School Attendance: January 31, 2025, to May 2025

64. Beginning on January 31, 2025, Parents withheld Student from School in part due to concerns with certain District staff and concerns with implementation of the LRE in Student’s February 2024 IEP. *Exhibit E*, p 2. *Exhibit D*, p. 1.
65. Special Education Coordinator 1 and Parent discussed transitioning Student to another District school. *Exhibit J*, pp. 1-77. Eventually, Parent’s chose to remove Student from School 1 and enroll her in School 2. *Id.* at p. 45
66. Ahead of this transition, School 2’s meeting specialist met with the relevant School 1 staff and reviewed Student’s IEP, as well as Student’s medical, nursing, and diapering needs. *Interviews with special education coordinator from School 2 (“Special Education Coordinator 2”) and Parents*. Staff also had a meeting with Parents. *Id.*
67. Student began attending School 2 on April 18, 2025. *Response*, p. 2. Parents do not have concerns with implementation of the LRE in Student’s IEP at School 2. *Interview with Parents*.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District properly implemented Student's IEP from May 7, 2024, to present, consistent with 34 C.F.R. § 300.323. District complied with the IDEA.

Parent's concern is that Student was not receiving the proper amount of time with her general education peers in the LRE. (FF #s 16-23) District's position is that Student was educated in the LRE for the time allotted in her IEP. (FF #s 27-46).

A. IEP Implementation: IDEA Legal Requirements

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17; ECEA Rule 2.19. The IEP is "the centerpiece of the statute's education delivery system for disabled children . . . [and] the means by which special education and related services are 'tailored to the unique needs' of a particular child." *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). A student's IEP must be implemented in its entirety. 34 C.F.R. § 300.323(c)(2).

A district must ensure that "as soon as possible following the development of the IEP, special education and related services are made available to a child in accordance with the child's IEP." *Id.* § 300.323(c)(2). To satisfy this obligation, a district must ensure that each teacher and related services provider has access to the IEP and is informed of "his or her specific responsibilities related to implementing the child's IEP," as well as the specific "accommodations, modifications, and supports that must be provided for the child in accordance with the IEP." *Id.* § 300.323(d).

B. February 2024 IEP Accessibility and Responsibilities

The CDE must determine whether the District satisfied its obligation under 34 C.F.R. § 300.323(d).

Here, the Findings of Fact demonstrate District satisfied this obligation. Special Education Teacher had ongoing access to complete copies of Student's February 2024 IEP and assisted in its development; as a result, he was aware of their requirements. (FF # 20). Special Education Teacher provided IEP snapshots to all general education teachers and relevant staff who worked with Student. (*Id.*). Special Education Teacher had conversations with relevant teachers and staff to review Student's IEP and schedule, and ensure they were aware of their requirements. (*Id.*). For these reasons, the CDE finds and concludes that District ensured that the IEP was accessible to staff responsible for its implementation, consistent with 34 C.F.R. § 300.323(d).

C. IEP Implementation: Least Restrictive Environment

The CDE must now determine whether District satisfied its obligation under 34 C.F.R. §§ 300.320(a)(5) and 300.323(c). An IEP must describe a student's LRE, which is the maximum appropriate participation, for that student, in the regular educational environment. 34 C.F.R. §§ 300.114(a), 300.117. The IEP must explain "the extent, if any, to which the child will not

participate with nondisabled children in the regular class.” *Id.* § 300.320(a)(5). Students with disabilities must be educated in the LRE specified by their IEP. *Id.* §§ 300.320(a)(5), 300.323(c)(2).

August 2024-January 2025

Under Student’s February 2024 IEP, the LRE was the general education class 40% to 79% of the time. (FF # 13). Parents had concerns about Student’s LRE specifically as it relates to the “Start of the Day”, “Recess”, “Lunch/Recess”, “Specials”, “Library, and “Other class inclusion time”. (FF #s 25, 32, 39, 46, 53, 59).

Student had two documented schedules that were largely consistent with one another. (FF # 22, 33, 43, 47, 53, 28, 60). In addition to these schedules, Special Education Teacher and Principal had detailed observations to share of Student in each of these settings. (FF #s 34, 36, 44, 49, 54). Other staff, including the music teacher, physical education teacher, and General Education Teacher, had reviews and observations that were documented in Student’s annual progress reports and IEPs. (FF #s 29-30, 35, 37, 50-51).

As detailed in the Findings of Fact, and based on the written schedules and the credible descriptions of Student participating in that schedule, District afforded Student participation in “Start of the Day”, “Recess”, “Lunch/Recess”, “Specials”, “Library, and “Other class inclusion time.” (FF #s 31, 38, 45, 52, 57, 63). The time afforded in each of these settings may have been occasionally interrupted by Student’s individualized needs related to activities of daily living, but District nonetheless ensured she was still able to participate in the LRE described in her IEP. (FF #s 23, 43, 48, 55). And though Student missed a “reward lunch” with a general education peer—which is not required by the IEP—on two occasions she did still participate in lunch with general education peers. (FF #s 39-44).

For these reasons, the CDE finds and concludes that District implemented the LRE in Student’s IEP from August 2024 through January 2025, as required by 34 C.F.R. § 300.323(c)(2). District complied with the law.

January 31, 2025 to May 2025

A parent whose actions prevent a school district’s ability to fully implement an IEP cannot complain that the IEP has not been implemented as written. *Boulder Valley School District RE-2*, 124 LRP 34351, (CO SEA 2023). *See also, Montgomery County Public Sch.*, 111 LRP 54915, (Md. SEA 2011). A school district can be held to implement only so much of the IEP as it reasonably can within the constraints imposed by the parent’s actions. *Id.*; *accord D.O. v. Escondido Union Sch. Dist.*, 59 F.4th 394, 412-13 (9th Cir. 2023); *Dougall v. Copley-Fairlawn City Sch. Dist. Bd. of Educ.*, 2020 WL 435385, at *28 (N.D. Ohio Jan. 28, 2020).

Here, Parents withheld Student from School 1 from January 31, 2025, until April 18, 2025. (FF #s 59, 62). Accordingly, because Parents chose to withhold Student from School 1, the CDE finds and

concludes that District was not obligated to implement Student's IEP from January 31, 2025 to April 18, 2025.

Parents then enrolled Student at School 2 for the end of the 2024-2025 school year. (FF # 65). Student began attending School 2 on April 18, 2025. (FF # 66). Parents reported not having concerns regarding implementation of the LRE in Student's IEP at School 2. (FF # 67). Thus, the CDE finds and concludes that District implemented the LRE in Student's IEP from April 18, 2025, through the end of the 2024-2025 school year, as required by 34 C.F.R. § 300.323(c)(2).

REMEDIES

The CDE concludes that District complied with the requirements of IDEA and the ECEA Rules. Accordingly, no remedies are ordered.

CONCLUSION

The Decision of the CDE is final and is not subject to appeal. *CDE's State Complaint Procedures*, Section E, ¶ 2. If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *Id.*; see also 34 C.F.R. § 300.507(a); 71 Fed. Reg. 156, 46607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer ("SCO").

Dated this 3rd day of July, 2025.



Tara Carone
State Complaints Officer

APPENDIX

Complaint, pages 1-9

Response, pages 1-5

- Exhibit A: IEPs
- Exhibit B: Notices of Meetings
- Exhibit C: Prior Written Notices
- Exhibit D: All documentation from IEP meetings
- Exhibit E: Student's schedule, grades reports, and attendance records
- Exhibit F: Progress monitoring reports
- Exhibit G: All service logs
- Exhibit H: District's calendars
- Exhibit I: District's policies and procedures
- Exhibit J: Correspondence
- Exhibit K: Name of District and School Staff
- Exhibit L: Verification of delivery
- Exhibit M: Student Snapshot
- Exhibit O: Student's Schedule

Reply, pages 1-4

- Exhibit 1: March 25, 2025 Meeting Transcript
- Exhibit 2: Emails with Director of Special Education and Parents

Telephone Interviews

- Parents: June 9, 2025
- Special Education Teacher: June 10, 2025
- Special Education Coordinator 2: June 10, 2025
- Principal: June 10, 2025
- Director: June 11, 2025