

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

State Complaint SC2025-583
Mesa County Valley School District 51

DECISION

INTRODUCTION

On June 18, 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 Mesa County Valley School District 51 (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified three allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

The CDE’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 June 18, 2024. Information prior to June 18, 2024 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 develop, review, and revise an Individualized Education Program (“IEP”) that was tailored to meet Student’s individualized needs from August 2024 to April 18, 2025 because it:
 - a. Did not consider the concerns of Parent for enhancing the education of Student—specifically Student’s need for tier 3 reading interventions and the accuracy of progress monitoring data—as required by 34 C.F.R. § 300.324(a)(1)(ii).
 - b. Did not ensure special education and related services—specifically reading intervention services—were based on peer-reviewed research to the extent practicable, as required by 34 C.F.R. § 300.320(a)(4).
2. District did not develop an IEP that was tailored to meet Student’s individualized needs from April 18, 2025 to present because it:
 - a. Did not develop the IEP at a properly convened IEP team meeting, as required by 34 C.F.R. §§ 300.320(a), 300.321(a).
 - b. Did not document Student’s present levels of academic achievement and how his disability, specifically dyslexia, affects his involvement and progress in the general education curriculum, as required by 34 C.F.R. § 300.320(a)(1).
 - c. Did not include measurable annual goals to meet Student’s needs that result from his disability to enable him to be involved in and make progress in the general education curriculum, specifically in the areas of reading and writing, as required by 34 C.F.R. § 300.320(a)(2).
 - d. Did not include the special education and related services and supplementary aids and services to be provided to Student that will enable him to advance appropriately toward attaining the annual goals and be involved in and make progress in the general education curriculum—specifically by reducing direct instruction from a special education teacher and removing and modifying accommodations from a prior IEP—as required by 34 C.F.R. § 300.320(a)(4).
 - e. Did not ensure special education and related services—specifically reading intervention services—were based on peer-reviewed research to the extent practicable, as required by 34 C.F.R. § 300.320(a)(4).
 - f. Did not consider the concerns of Parent for enhancing the education of Student—specifically Student’s need for tier 3 reading interventions and the accuracy of progress monitoring data—as required by 34 C.F.R. § 300.324(a)(1)(ii).
3. District did not fully implement Student’s IEP because it:

- a. Did not make the IEP accessible to teachers or service providers responsible for its implementation from August 2024 to present, as required by 34 C.F.R. § 300.323(d).
- b. Did not provide the direct instruction in reading listed in the IEP from August 2024 through February 6, 2025, as required by 34 C.F.R. § 300.323(c).
- c. Did not provide these accommodations listed in Student’s IEP as required by 34 C.F.R. § 300.323(c):
 - i. Speech-to-text/text-to-speech in computer class from October 10, 2024 through December 2024;
 - ii. A headset with noise-canceling microphone, from October 2024 to present;
 - iii. A note sheet or note catcher, from January 2025 to present;
 - iv. A vocabulary word list for all classes, from January 2025 to present; and
 - v. A 1:1 Chromebook or device relevant to school setting, from March 11, 2025 to present.

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 12 years old and resides within District’s boundaries. *Exhibit A*, p. 4. During the 2024-2025 school year, Student attended 6th grade at a District middle school (“School”). *Id.*
2. Student is eligible for special education services as a child with a specific learning disability and speech language impairment. *Id.* at pp. 4, 12. Student’s struggles with decoding, fluency and comprehension “limi[t] his access to the general education setting.” *Id.* at p. 12. Student reads at a first or second grade level and struggles with writing. *Id.* at p. 12; *Exhibit B*, p. 9.
3. Student is performing well in general education classes with accommodations. *Exhibit A*, pp. 33, 34. He is motivated to learn. *Interview with Parent*. His listening comprehension is a strength. *Exhibit B*, p. 9.

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

B. District's Reading Curriculum

LANGUAGE! Live

4. School's special education classrooms use LANGUAGE! Live ("LL") to teach reading. *Interviews with Student's case managers/special education teachers ("Case Manager 1" and "Case Manager 2")*. LL is "a comprehensive literacy intervention for students in grades 5-12" that "uses a [s]tructured [l]iteracy approach founded in the science of reading." *CDE Exhibit 1*, p. 3. It was developed by the same person who developed the LETRS training that is required for Colorado teachers under the READ Act. *Id.* at p. 4; *Interview with CDE Content Specialist*. She is a prominent proponent of multisensory instruction. *Interview with District's special education compliance consultant ("Compliance Consultant")*.
5. It teaches both language comprehension and word recognition, which includes phonological awareness, decoding and sight recognition through a "blend of teacher-guided and online instruction and practice." *CDE Exhibit 1*, pp. 4-5. With 45-90 minutes of daily instruction, students using LL gained almost two years of growth in one year. *Id.* at p. 10.
6. LL's curriculum is based in research on the struggles experienced by older students. *Exhibit C*, pp. 20-31. For instance, LL recognizes that for students whose listening comprehension exceeds their reading comprehension, the challenge is often decoding and word recognition, with related struggles with phonemic awareness, fluency and more. *Id.* at p. 23. Evidence suggests that "adolescents' literacy deficiencies can be remedied if these individuals receive direct, explicit, and systematic word recognition, vocabulary, and comprehension instruction." *Id.*
7. LL includes multisensory instruction, with activities like having students put their hand under their chin to feel how their mouth moves to learn syllabication or using digital tiles to segment and manipulate phonemes. *Interview with Compliance Consultant*. "Masterpiece Sentences" activities are incorporated throughout the program and require students to "use a color-coding method to build and manipulate different types of words and phrases to make sentences." *Id.*
8. LL is not on the CDE's advisory list of instructional programs. *CDE Exhibit 2*. However, districts are not obligated to choose a curriculum from the list. *Interview with CDE Content Specialist*.
9. A 2022 study looked at the impact of LL's blended learning curriculum on 133 middle school students who were either one or more than two grade-levels behind. *CDE Exhibit 3*. The study found that all students' Lexile scores increased after a year of instruction and specifically that the Lexile growth of the students who were more than two years behind was more than double that of other groups. *Id.* at p. 43.

Just Words

10. District special education teachers also have access to Just Words (“JW”). *Response*, p. 4. JW is an “accelerated, highly explicit, multimodal” program for students with “mild to moderate gaps in their decoding and spelling proficiency.” *Just Words, Wilson Language Training*. (<https://www.wilsonlanguage.com/programs/just-words/> Accessed July 31, 2025). Lessons are 45 minutes three to five times per week. *Id.* JW teaches phonemic awareness, phonics, word study and spelling. *Id.*
11. JW is a reading intervention program created by the same people as the Wilson Reading System. *Interview with District’s resource specialist (“Specialist”)*. It allows students to move more quickly and requires less teacher training than the Wilson curriculum. *Id.*
12. JW is based on the science of reading. *Id.* Research has demonstrated that students made more progress with JW than their peers who did not participate in the program. *Just Words, Wilson Language Training*. (<https://www.wilsonlanguage.com/knowledge-library/programs/just-words/just-words-evidence-of-effectiveness/> Accessed July 31, 2025).

C. 2023 IEP Accessibility to Providers

13. District Case managers are responsible for ensuring providers are aware of their responsibilities under a student’s IEP. *Interview with District’s Special Education Coordinator (“Coordinator”)*. They are expected to contact teachers and other providers about a student’s IEP at the start of the year as well as after any changes made at an IEP team meeting. *Id.*
14. School started on August 7, 2024. *Exhibit K*. At the start of the 2024-2025 school year, Student’s IEP developed in October 2023 (the “2023 IEP”) was in effect. *Exhibit A*, p. 1.
15. Case Manager 1 shared IEPs for her students, including Student, at the start of the year. *Interview with Case Manager 1*. She gave general education teachers copies of the IEP snapshots and created an easy-to-use document with accommodations pulled directly from the IEP that she shared with teachers. *Id.* This was a living document that could be updated with changes. *Id.* Teachers also had access to the full IEP on District’s data management system. *Id.*
16. Student’s computer teacher (“Computer Teacher”) got a copy of his IEP at the start of the year and had access to it online. *Interview with Computer Teacher*. In addition to sharing the document with teachers, Case Manager 1 talked to the teachers regularly, observing classes or touching base during lunch to see what they needed. *Id.* She provided updates on IEPs quarterly as well as after all IEP team meetings. *Id.*
17. On August 22, 2024, Case Manager 2 sent an email to all the teachers with a list of the sixth graders with a “moderate needs IEP” and their corresponding case managers. *Exhibit M*, p. 4. IEP snapshots for all those students, including Student, were attached. *Id.* at pp. 4-12.

18. She sent an updated list of students on September 5 and included the snapshots again. *Exhibit M*, p. 14. She encouraged teachers to focus on snapshots for their students to find their classroom accommodations. *Id.* Case Manager 2 sent a third email on September 6 with a list of the students on IEPs. *Id.* at p. 15. She reminded teachers that accommodations must be given in every class and asked them to contact the student’s case manager if they had not yet received a copy of the IEP snapshot. *Id.*

D. 2023 IEP Implementation – Reading Intervention Services

19. The 2023 IEP required 120 minutes per week (“MPW”) of direct instruction in reading and 120 MPW of direct instruction in writing to be delivered outside of the general education setting. *Exhibit A*, p. 67. These services include “direct multisensory instruction” to “address deficits in the areas of phonics, fluency, reading comprehension, spelling, and written expression.” *Id.* at p. 66. First quarter lasted 8.5 weeks (43 school days). *Exhibit K*. Student was entitled to 1,020 minutes of each service in 8.5 weeks. *Exhibit A*, p. 67.

20. Parent’s concern is that Student was in a special education class with both math and literacy instruction when his IEP did not include math minutes. *Interview with Parent*.

21. Classes at school lasted 50 minutes, or 2,150 minutes in first quarter. *Interview with Case Manager 1*. For the first quarter of the year, Student was in a special education class with Case Manager 1 and several other students. *Id.*

22. During that time, Student mostly worked on online lessons through LL. *Id.* The LL lessons were targeted to Student’s needs based on assessment results and he could not proceed to the next lesson until he demonstrated mastery. *Id.* Case Manager 1 also taught phonics and literacy to the class using LL workbooks. *Id.* They spent time reading stories or books aloud or with audiobooks. *Id.*

23. About half the class was spent on math instruction. *Id.* During that time Student was encouraged to continue with LL or to read ahead in their read-aloud books. *Id.* Student disliked working on LL and frequently asked to participate in the math lessons, which is a preferred subject. *Id.*

24. Math instruction is neither specialized instruction in reading nor writing nor required by the 2023 IEP, and thus the CDE finds that District did not fully implement 120 MPW of direct instruction in reading and 120 MPW of direct instruction in writing during the first quarter, as required by the 2023 IEP.

E. District’s IEP Development Practices

25. Some special education teachers provide a draft to parents before an IEP team meeting, but it is not common practice in District. *Exhibit M*, p. 189; *Interview with Compliance Consultant*. District advises teachers to limit any drafts to the present levels and maybe suggested goals. *Id.* Instead of sending drafts in advance, which is not required by the IDEA, they project a

blank or prior year IEP for discussion during the meeting. *Interview with Compliance Consultant*. Any changes discussed at the meeting are then recorded in the IEP after the discussion. *Exhibit M*, p. 189.

26. After IEPs are finished, the case manager sends them to District's special education records team. *Interview with Coordinator*. It is that team's job to review IEPs for completeness and accuracy with dates. *Interviews with Coordinator and Compliance Consultant*. If the team identifies an issue, it sends it back to the case manager to correct. *Id.* Small typos or clerical errors can be changed right away with an amendment. *Id.* If any significant issues are identified, like missing a needed goal area or services not aligning with goals, the case manager would be expected to reconvene the IEP team to correct the issue. *Id.*

F. 2024 IEP

27. On October 10, 2024, an IEP team including Parent, Parent's advocate ("Advocate 1"), Student, Case Manager 1, a general education teacher, and a speech and language pathologist ("SLP") met to develop an IEP for Student (the "2024 IEP"). *Exhibit A*, p. 5. The meeting lasted over two hours. *Interviews with Parent and Case Manager 1*.
28. The 2024 IEP included a brief summary of the most recent evaluation of Student from October 2023. *Exhibit A*, pp. 7-8. Student had scored at the fifth percentile on the three most recent administrations of the NWEA reading assessment. *Id.* at p. 8. He also scored "well below benchmark level proficiency for literacy" on the Dynamic Indicators of Basic Early Literacy Skills Assessment. *Id.* Student scored around the fifth or sixth percentile on recent assessments of reading comprehension and reading fluency. *Id.* Student consistently scored in the average range on math assessments. *Id.* at pp. 8-9.
29. Student met his prior reading and writing goals. *Id.* at p. 9. Instead of letter grades, students at school receive number grades one through four corresponding to "did not meet," "approached," "met" or "exceeded" grade level standards. *Id.* Student was meeting or exceeding expectations in all his classes. *Id.* at pp. 9-10.
30. Student's disability "hinders his ability to stay on task for reading assignments." *Id.* at p. 12. It also impacts his ability to "accurately read and decode texts and formulate written responses." *Id.* His challenges with reading comprehension and processing were limiting his access to general education. *Id.* He required specialized instruction in "literacy to help him recognize words and solve problems in textual reading, and to help him decode, read fluently, and comprehend." *Id.* His articulation skills "affect[ed] his ability to interact with his peers and teachers." *Id.*
31. Students who struggle with articulation can also struggle with decoding. *Interview with CDE Content Specialist*. Because they are not saying certain sounds correctly, they do not hear the sounds correctly, which can impact their ability to recognize those sounds on a page. *Id.* These students can benefit from close consultation between SLPs and reading instructors. *Id.*

32. During the meeting, Parent raised her concerns about Student’s lack of progress and his need for “more intensive reading intervention and specialized instruction such as Barton or Wilson services.” *Interview with Parent; Exhibit A*, p. 12. The IEP team did not agree to include a specific curriculum in the IEP. *Interview with Parent*. Parent also said Student would benefit from a co-taught ELA class in addition to outside direct literacy instruction. *Exhibit A*, p. 12.
33. The 2024 IEP included three reading goals in fluency, comprehension and decoding and two speech goals. *Id.* at pp. 13-15. Progress would be reported quarterly. *Id.* at p. 13.
34. The IEP team spent a lot of time discussing accommodations, with Student weighing in on what helped him. *Interview with Parent*. After extensive conversation, the accommodation list increased by at least a third. *Interview with Case Manager 1*. Ultimately, the 2024 IEP included 22 accommodations. *Exhibit A*, p. 16. Student also required assistive technology in the form of a “headset with a noise canceling microphone” for speech to text. *Id.* at p. 13.
35. Student required direct instruction from a special education teacher and an SLP. *Id.* at pp. 19-20. The team did not make changes to the curriculum in response to Parent’s concerns, but it did revise the services, goals and accommodations. *Interview with Case Manager 1*. This included adding 200 MPW of direct instruction inside a cotaught ELA class. *Id; Exhibit A*, pp. 19-20. Student’s least restrictive environment (“LRE”) was general education 88% of the time, where he would “receive the specialized instruction that he needs.” *Exhibit A*, p. 21.
36. According to the embedded prior written notice (“PWN”), no other options had been raised. *Id.* Other factors included that Parent had stated that Student needed “more intensive reading intervention and specialized instruction such as Barton or Wilson services.” *Id.* at p. 22. Student was demonstrating “grade-level proficiency in composing texts verbally” but his written expression need was apparent when he was asked to write what he composed down on paper because of his decoding challenges. *Id.* This need was addressed using speech to text software in the accommodation section. *Id.*
37. After the meeting, Case Manager 1 sent Parent a copy of the IEP to review before she finalized it. *Interview with Case Manager 1*. After that, she sent the IEP to District’s special education records team on October 31. *Id; Exhibit A*, p. 5. The records team sent Parent the final IEP on November 11. *Exhibit M*, p. 1.

G. 2024 IEP Accessibility to Providers

38. Case Manager 1 shared the changes with all of Student’s teachers as soon as she finalized it on October 17, 2024. *Interview with Case Manager 1; Exhibit M*, p. 19. Her practice was to talk to teachers directly rather than sending an email. *Interview with Case Manager 1*.
39. At the start of the new quarter in October, Computer Teacher received an updated version of Student’s IEP through an in-person conversation. *Interview with Computer Teacher*. She also had a conversation with Case Manager 1 about how to support Student. *Id.*

H. 2024 IEP Implementation - Reading Intervention Services

40. The 2024 IEP required 240 MPW of direct instruction from a special education teacher outside of general education for literacy due to demonstrated needs in “basic reading skills, reading comprehension, reading fluency, and written expression.” *Exhibit A*, pp. 19-20.
41. Case Manager 1 generally teaches eighth grade students and is not as familiar with elementary literacy instruction. *Interview with Case Manager 1*. In response to Parent’s concerns about Student working on math, they agreed to move Student to a class with Case Manager 2. *Interviews with Parent and Case Manager 1*. This change occurred at the start of the second quarter, on October 15, 2024. *Interviews with Case Managers 1 and 2*. Case Manager 2 was also the co-teacher in Student’s new ELA class. *Id.*
42. At the October meeting, Parent and Student had the understanding that he was being moved to a special education class where he would not be getting any instruction in math. *Interview with Parent*. Parent also understood that he would be paired with more students at his reading level. *Id.* Her concern is that he continued receiving direct instruction in math. *Id.*
43. In the special education class, they worked on learning chunks of words like “ed” or “tch.” *Id.* They used magnetic tiles to write letters on a board or wrote on white boards. *Id.* They practiced fluency by reading together or with partners. *Id.* Case Manager 2 used passages from LL as well as other curriculums she has used previously. *Id.*
44. After October 30, Case Manager 2 had the JW program to supplement her work with Student. *Exhibit M*, p. 21. She used the practice books, including word and syllable work. *Interview with Case Manager 2; Exhibit A*, p. 27. They would practice reading certain vowel or syllable types. *Id.* However, she could not fit it in daily, as the program intended. *Exhibit M*, p. 29.
45. From October through early February, half the class time was also used to provide direct instruction in math. *Interview with Case Manager 2*. Case Manager 2 tried to integrate Student by having him work on word problems or teach other students. *Id.* Student also had the option to work on the computer-based portion of LL during that time. *Id.* However, he was reluctant to engage with the program, especially when he was the only one doing it. *Id.* Student has historically struggled to engage with online learning. *Interview with Parent; Exhibit M*, p. 26.
46. Case Manager 2 tried to talk with him about working independently with direction. *Interview with Case Manager 2*. He was more willing to work on LL when other students were. *Id.* Sometimes Case Manager 2 selected books for him to practice reading and writing down words he did not know. *Id.; Exhibit A*, p. 27. She encouraged him to try to figure it out from context. *Interview with Case Manager 2*.
47. On February 5, two students were moved out of Case Manager 2’s resource class, so the class could focus exclusively on literacy instruction moving forward. *Exhibit M*, pp. 51-51. Between

October 15, 2024 and February 5, 2025, there were 12 weeks of School (63 school days).
Exhibit K.

48. Math instruction is neither specialized literacy instruction nor required by the 2024 IEP, and thus the CDE finds that District did not fully implement 240 MPW of direct instruction for literacy from October 15, 2024 through February 5, 2025, as required by the 2024 IEP.

I. 2024 IEP Implementation – Accommodations

Speech-to-text

49. The 2024 IEP required “[a]ccess to speech-to-text/text to speech on all district technology devices.” *Exhibit A*, p. 16. Parent’s concern is that the computers in Student’s computer class did not consistently have the necessary programs installed for that from October 2024 through December 2024. *Interview with Parent.*
50. Student struggled to keep up with his work in class without speech-to-text and screen reader programs installed on the classroom desktops. *Id.* After speaking with Parent, Computer Teacher put in a work order and had the programs installed on two computers in the classroom. *Id.* However, Student was not consistently able to sit at a computer with the right programs. *Id.* He was eventually given a Chromebook with the programs, but that did not have the coding programs they were using in class. *Id.*
51. For first semester, Student was enrolled in a computer class where they learned coding, data privacy and the history of computing. *Interview with Computer Teacher.* Student and other sixth graders were learning to code games during the first quarter, and they were learning HTML coding using a new program during the second quarter. *Id.*
52. Initially Student had a Chromebook that he kept in the computer classroom for speech-to-text and text-to-speech. *Id.* Later he started bringing his own computer. *Id.* When he was learning to code games, he would use the Chromebook for text-to-speech and speech-to-text because he could not do that on the desktop while he was in the coding platform. *Id.*
53. The new program they started using the second quarter had videos to walk students through what to do. *Id.* Student would watch and listen to those instructions before starting. *Id.* The new program did not involve much reading because of the videos, and Computer Teacher read any instructions aloud. *Id.* Student could use speech-to-text on his Chromebook for any writing, as he could not do that on the desktop while running the coding program. *Id.*
54. Student did well in the class and asked for help when needed. *Id.* Ultimately, according to his report card, Student met grade-level expectations for both quarters. *Exhibit G*, p. 1.
55. Based on these findings, and because the second program used video instructions and Student could use voice-to-text on his Chromebook for any written assignments, the CDE

finds that District made this accommodation available to Student consistent with the 2024 IEP from October 10 through December 2024.

Headset with Noise Cancelling Microphone

56. The 2024 IEP required “[a]ccess to a headset with a noise canceling microphone for speech to text software.” *Exhibit A*, p. 16. Parent’s concern is that a noise canceling microphone was not consistently available to Student in all his classes after the 2024 IEP team meeting. *Interview with Parent*. In later conversations, Student reported to Parent that he had it when he needed it and that he was generally choosing to use the built-in microphone on the Chromebooks. *Id.*
57. Student initially used a noise-canceling microphone in Case Manager 2’s classes for LL activities. *Interview with Case Manager 2*. She also told him where to find them in the ELA and social studies classrooms, and he could always borrow one from her room for other classes. *Id.* However, when he saw other students using the built-in microphone, he found that it worked just as well. *Id.* She stopped seeing him using the noise-canceling microphone, but she would still offer it to him. *Id.*
58. Based on these findings, the CDE finds that District made this accommodation available to Student consistent with the 2024 IEP, from October 2024 to present.

Note Sheet

59. The 2024 IEP required “[i]n addition to the note-catcher/fill-in-the blank note taking options, an example note sheet provided to enable note taking completion and accuracy;” *Exhibit A*, p. 16. Student reported only getting complete note sheets from science and social studies during the second semester. *Interview with Parent*.
60. Student had a Google Document set up with note catchers, so he could complete them using speech-to-text. *Response*, p. 10; *Interview with Case Manager 2*. Over time, they found that Student retained more when he relied on copies of the notes and was not trying to write the notes himself. *Interview with Case Manager 2*. Student would bring copies of the notes for all his classes to review with Case Manager 2 before exams. *Id.*
61. Based on these findings, the CDE finds that District made this accommodation available to Student consistent with the 2024 IEP, from January 2025 to present.

Vocabulary Word List

62. The 2024 IEP required “[a]ccess to vocabulary word list for concurrent units of study for writing tasks” *Exhibit A*, p. 16. Parent’s concern is that Student only got vocabulary lists for ELA and science during the second semester. *Interview with Parent*.

63. ELA Teacher used the “Frayer Models and other visual strategies to explicitly teach new vocabulary.” *Response*, p. 10; *Interview with Case Manager 2*. Case Manager 2 pre-taught ELA vocabulary during the special education class. *Interview with Case Manager 2*.
64. Student consistently had vocabulary lists for science and social studies in his notebook that he took to every class. *Id.* He frequently drew pictures to go with the science vocabulary. *Id.*
65. Based on these findings, and because Student had vocabulary lists for ELA, science and social studies and this accommodation was only required for writing tasks, the CDE finds that District made the accommodation available to Student consistent with the 2024 IEP from January 2025 to present.

1:1 Chromebook

66. The 2024 IEP required a “1-1 chromebook or device relevant to school setting (student assigned-school owned) access for specific speech-to-text and text to speech software programs and applications.” *Exhibit A*, p. 16. Parent’s concern is that Student did not have a 1:1 Chromebook after March 11, 2025. *Interview with Parent*.
67. Parent picked Student up early on Tuesday, March 4 and when he returned on March 6, his Chromebook was missing. *Exhibit M*, p. 77. His practice was to plug the device in in his advisory classroom. *Id.* Case Manager 2 still could not locate it on March 11. *Id.*
68. This was Student’s second assigned Chromebook, after his first broke. *Interview with Case Manager 2*. He did not get a third assigned device after this as each teacher had enough devices for the whole class. *Id.*
69. Instead, Case Manager 2 went around to each of Student’s classes with him to show him he could access the necessary programs on all the District Chromebooks. *Id.* Every time students use a Chromebook, they sign in and access their individual accounts. *Id.* This should make each device function identically for them. *Id.*
70. Student credibly reported to Parent significant anxiety using a different Chromebook in each class. *Interview with Parent*. For instance, he could not always access the extensions he needed or get them to function correctly. *Id.* Some older models did not seem to support speech-to-text at all. *Id.* At times, Student said this made it hard to complete work. *Id.*
71. Third quarter ended March 12. *Exhibit K*. Student’s grades in math, ELA and science dropped fourth quarter, and he did not meet expectations in ELA or science. *Exhibit G*, p. 1.
72. Because Student did not have a 1:1 Chromebook or other student-assigned device providing access to speech-to-text and text-to-speech software after March 6, 2025, the CDE finds that District did not make this accommodation available to him, consistent with the 2024 IEP.

J. January 2025 IEP Team Meeting

73. On January 14, 2025, Parent sent an email to Student's IEP team, as well as Coordinator and District's director of special education ("Director"), expressing concern that after changing case managers, Student was still getting math instruction and working on homework during his literacy instruction time. *Exhibit M*, pp. 25-27. District scheduled an IEP meeting to "review the implementation of [Student's] current IEP and discuss parent concerns." *Exhibit A*, p. 23.
74. After the meeting, District agreed to conduct additional testing, including a curriculum-based reading assessment "to identify gaps in [Student's] phonics and phonemic awareness" and other "additional diagnostic reading assessments to gain further understanding" of the impact of Student's disability. *Id.* at p. 27. No changes were made to the IEP. *Id.*

K. Additional Assessments

75. In February 2025, Specialist completed the Wilson Assessment of Decoding and Encoding ("WADE Assessment"). *Exhibit N*, pp. 1-2. Student's results indicated that he should start with substep 1.3 in the Wilson Reading System, which Case Manager 2 understood to mean he was not ready for JW. *Exhibit M*, pp. 53, 59.
76. However, given Student's age and overall intelligence, Specialist concluded that JW would be a better program for Student because it would allow him to learn more quickly. *Interview with Specialist*. The Wilson curriculum starts students with CVC words and takes three years to complete. *Id.* JW moves more quickly, by teaching students how to break more complex words into syllable parts, instead of starting with CVC words. *Id.* This would support Student in reading more complicated grade-level texts sooner. *Id.*
77. On April 18, 2025, District completed an evaluation ("2025 Evaluation") of Student. *Exhibit B*, pp. 1-19. On a nationally normed NWEA reading assessment that students take three times each year, Student scored at the second percentile in reading "demonstrating low achievement and low growth." *Id.* at p. 4. His score was lower than in spring or fall 2024. *Id.*
78. On the Kaufman Tests of Educational Achievement, Student's scores were in the low to below average range, except listening comprehension and letter naming facility, both of which were average. *Id.* at p. 9. Student's reading skills were at a first and second-grade level. *Id.* Student completed some of the same subtests in October 2023 and showed some growth on all three repeated subtests. *Id.*; *Exhibit A*, p. 57.

L. 2025 IEP

IEP Team Meeting

79. On April 18, 2025, a multidisciplinary team and IEP team including Parent, Student, Coordinator, a general education teacher, Case Manager 2, SLP, Parent's advocates ("Advocate 2" and "Advocate 3") and School Psychologist met to review the 2025 Evaluation

and develop an IEP (“2025 IEP”). *Exhibit A*, p. 49; *Exhibit B*, p. 20. Parent did not get a draft of the IEP in advance or when she left the meeting. *Interviews with Parent, Advocate 2, and Coordinator*. Every person interviewed had a different recollection of what was discussed at the meeting. *Interviews with Parent, Advocates 2 and 3, Coordinator and Case Manager 2*.

Present Levels

80. The 2025 IEP included a two-paragraph summary from the 2025 Evaluation, noting that Student’s “foundational reading skills (decoding, spelling, word recognition, and reading fluency) remained in the significantly low range,” consistent with Dyslexia. *Exhibit A*, p. 32. His challenges with phonological processing could impact his “ability to attend to spoken language” and decode unfamiliar words, impacting reading fluency. *Id.*
81. Results from the spring 2025 administration of the NWEA standardized test were included, although it was administered the day after the IEP team meeting. *Id.* at pp. 34-35; *Interview with Coordinator*. Student scored at the sixth percentile on the reading test. *Exhibit A*, pp. 34. Student’s progress on his prior IEP goals is reported from March and April. *Id.* at pp. 36-37.
82. The Student Needs statement in the 2025 IEP is substantively the same as in the 2024 IEP. *Id.* at pp. 12, 38. The Parent input statement is identical to the statement in the 2024 IEP. *Id.* No new input from the April 2025 IEP team meeting is recorded. *Id.*
83. Parent had concerns about the progress monitoring data that was presented, because Case Manager 2 indicated that several accommodations had been provided to Student. *Interviews with Parent, Coordinator and Case Manager 2*. For instance, he was “given extra time to pre-decode the text” for reading fluency and for reading comprehension he was “given help with decoding 1-2 words of his choosing.” *Exhibit H*, pp. 1-2.
84. Case Manager 2 changed how she monitored progress after the January IEP team meeting. *Interview with Case Manager 2*. “Because of his extremely low reading” Student was not showing progress the way they had been progress monitoring using grade level texts. *Id.* She wanted Student to feel success and get better at picking out words he did not know. *Id.*
85. Progress monitoring must be done consistently over time to develop meaningful data. *Interview with CDE Content Specialist*. If testing conditions change significantly, like with the addition of new accommodations, it is not possible to identify whether a student has made progress. *Id.*

Annual Goals

86. The proposed reading goals were written incorporating the new accommodations Case Manager 2 was using. *Interview with Coordinator*. Parent wanted progress monitoring done with fidelity across the school year and consistent with how the goals were written. *Interviews with Parent, Coordinator and Case Manager 2*. She wanted to know what his actual

progress was on the prior goals before discussing new IEP goals as a team. *Interviews with Parent and Advocate 3.*

87. She also thought Student still needed a writing goal. *Id; Exhibit M*, p. 122. During the meeting, the IEP team agreed that Case Manager 2 would develop a new writing goal. *Interviews with Coordinator, Parent and Advocate 2.* They did not write one as a team. *Id.*
88. A few days after the meeting, Parent emailed Case Manager 2 and other members of the IEP team and asked for progress monitoring data based on implementing the goals as written, without accommodations. *Exhibit M*, p. 122. If he was not making progress, she asked for an IEP team meeting to develop new goals. *Id.*
89. Based on Parent’s concerns about the progress monitoring, Case Manager 2 developed new reading goals in consultation with Coordinator. *Interview with Coordinator; Exhibit M*, p. 190. These goals were not discussed with Parent or other members of the IEP team. *Id.* The 2025 IEP includes three reading goals, a writing goal and two speech goals. *Id.* at pp. 39-42. The reading goals are:

- Goal 1 – Reading: “In order for [Student] to move from a current performance of the Spring 5th percentile on his instructional level (which is currently at 6th grade with an accuracy of 90% or more) to expected performance, by his next annual IEP review meeting (4/17/2026), [Student] will achieve a score above the Spring 20th percentile at the 7th grade level by reading an average of 116 words per minute on his three most recent nationally normed referenced word reading fluency assessments.” From a baseline of 51 correct words per minute.
- Goal 2 – Reading: “By 4/17/2026, in order for [Student] to move from current performance of 6th percentile on the 6th grade Spring assessment to expected performance, he will achieve a score above the Spring 28th percentile at the 7th grade level as measured by an average of his three most recent nationally norm referenced basic reading comprehension assessments.” From a baseline of the 6th percentile.
- Goal 3 – Reading: “By [Student] will be able to use decoding skills to read a list of grade appropriate three-syllable words with an average accuracy of 70% on his three most recent multi-syllable fluency assessments.” From a baseline of 52%.

Exhibit A, pp. 39-40.

90. Goals should generally be written to the skill, rather than the assessment. *Interview with CDE Content Specialist.* For instance, the reading fluency goal could focus on words per minute rather than a score on nationally normed assessments. *Id.* It is not clear here which assessment is being used, which would prevent a new teacher from picking up the goals and implementing them as written. *Id.*

91. Student's writing goal was "using available speech to text and editing tools, [Student] will be able to independently write a 5 sentence paragraph pertaining to a grade level topic with 70% correct grammar, punctuation, and capitals," from a baseline of 45% accuracy. *Id.* at p. 40. This is substantively the same as the goal he met in October 2024. *Id.* at p. 9; *Interview with CDE Content Specialist.*

Accommodations

92. Case Manager 2 revised the accommodation list to make it easier for general education teachers to follow. *Interview with Case Manager 2.* She made changes to the accommodations based on conversations she had with Student and general education teachers outside of the meeting. *Id.* They spent a lot of time discussing the accommodations during the October 2024 IEP team meeting, but Parent does not recall much discussion of accommodations during the April 2025 meeting. *Interview with Parent.*

93. Per the 2025 IEP, Student required access to "a device with speech to text and text to speech for longer grade level reading and writing assignments." *Exhibit A*, p. 39. The 2025 IEP included 12 accommodations but not use of fidgets, not calling on Student, use of a 1:1 Chromebook or several others from the 2024 IEP. *Id.* at pp. 16, 42.

Service Delivery Statement

94. Case Manager 2 initially proposed removing Student's 200 MPW of direct instruction inside of general education. *Interviews with Case Manager 2 and Parent.* Parent and Advocate 2 objected to this change and Student shared how the services were helping him. *Id.* The IEP team agreed to keep the services in his IEP. *Id.*; *Exhibit A*, p. 21; *Exhibit M*, p. 118

95. District reduced Student's services outside of general education because of changes to the master schedule for the coming year. *Interview with Coordinator.* At the time of the meeting, it was not yet finalized, but District was moving to a schedule with early release every Friday. *Id.* Most people did not remember discussing this change during the meeting. *Interviews with Case Manager 2, Parent, and Advocate 2.* With School's new schedule, classes will be meeting for 225 MPW. *CDE Exhibit 4.*

96. According to the 2025 IEP, Student's LRE was general education 89.9% of the time and he required the following special education services:

- Specially Designed Instruction: 200 MPW of direct instruction from a special education teacher outside of general education for literacy.
- Specially Designed Instruction: 100 MPW of direct instruction from a special education teacher inside general education in a co-taught ELA class.

Exhibit A, pp. 45-47.

Prior Written Notice

97. According to the embedded PWN, the IEP team discussed the need for cotaught ELA instruction and agreed it would continue to be provided. *Id.* at p. 48. In addition, it discussed and rejected ESY based on a lack of regression over the summer. *Id.* It also agreed to continue the meeting although the general education teacher had to leave. *Id.* No other options or decisions are reflected in the PWN. *Id.*

M. 2025 IEP Implementation

98. As of May 5, 2025, Case Manager 2 was still working on the 2025 IEP. *Exhibit M*, pp. 136-140. The IEP was sent to District's records department on May 6, 2025. *Exhibit A*, p. 49.

99. District's records department sent Parent a final copy of the IEP on May 14. *Exhibit M*, p. 142. Based on District's practice of having IEPs reviewed for completeness by the records department, the CDE finds that the 2025 IEP was not finalized until May 14, with five school days left. *Interviews with Coordinator and Compliance Consultant; Exhibit K.*

100. Given the limited amount of days remaining in the school year, the CDE finds that District continued implementing the 2024 IEP until the end of the year.

N. Progress on 2024 IEP Goals

2024 IEP Goal 1 - Reading

101. Student's first reading goal was to read 89 words per minute ("WPM") with 90% accuracy or higher on a grade-level reading fluency passage, from a baseline of 68 WPM. *Id.* at p. 13.

102. Progress monitoring probes in November and December 2024 showed Student reading 51 WPM with 85% accuracy and 46 WPM with 78% accuracy. *Exhibit H*, p.1. In third quarter, Case Manager 2 started allowing "extra time to pre-decode the text." *Exhibit H*, p. 1. With this accommodation, his accuracy increased above 90% and his WPM increased to 60-70 WPM. *Id.*

2024 IEP Goal 2 - Reading

103. His second reading goal was to answer multiple choice questions with 50-60% accuracy on "a nationally normed grade level reading comprehension passage/probes of at least a page in length." *Exhibit A*, pp. 13-14. This would bring Student from the 10th percentile to the 20th percentile when compared to grade level norms. *Id.*

104. On a probe in November 2024, Student scored at the 8th percentile. *Exhibit H*, p. 2. In December he scored 44. *Id.* After Case Manager 2 started helping Student decode one or two words of his choosing and reading him the questions, Student scored in the 16th and then the

39th percentile. *Id.* In the final quarter of the year, he scored in the 54th and then the 99th percentile. *Id.*

2024 IEP Goal 3 - Reading

105. Student’s final reading goal was to use his decoding skills “to read a list of 25 three-syllable words within 2 minutes with 60% accuracy,” from a baseline of 12. *Exhibit A*, p. 14.
106. During the second quarter of the year, Student read seven words correctly on two separate probes. *Exhibit H*, p. 3. During third quarter, he read 10 and 18 words on two different probes. *Id.* Fourth quarter, he read 13 words correct in two minutes the first time and 21 words the second time he read the same list. *Id.*

O. Compensatory Services

107. On May 8, 2025, District proactively offered to provide Student with 20 hours of compensatory services over the summer to “make up for instruction that may have been missed due to his being in a combined math and reading special education class.” *Exhibit M*, pp. 186-188. Instruction would be provided in 12 sessions of 100 minutes each. *Id.*
108. Services were provided in a 1:1 setting by Specialist. *Exhibit J*. When she first met with Student this summer, she did not do any testing but observed that he had made progress compared to when she administered the WADE assessment in February 2025. *Interview with Specialist*. Specifically, he knew more rules for decoding. *Id.*
109. Rather than using a specific curriculum, Specialist developed lessons that were responsive to Student’s needs based on her knowledge of multiple reading curriculums. *Id.* She tried to use games to help pass the time in the long sessions, like creating card games with vowel combinations. *Id.* They also worked on reading a “highly decodable” book for older kids. *Id.* His reading was slow and labored, but his reading comprehension was “amazing.” *Id.*
110. At the end of the services, Specialist administered the WADE assessment again, using a different list of words. *Id.* Student showed growth in 11/12 areas assessed and was stable in the final area. *Exhibit N*.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District developed an IEP that was tailored to meet Student’s individualized needs in October 2024, as required by 34 C.F.R. §§ 300.320(a)(4) and 300.324(a)(1)(ii). District complied with the IDEA.

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, 137 S. Ct. 988, 999 (2017). An analysis of the adequacy of an IEP begins with the two-prong standard established by the United States Supreme Court in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The first prong determines whether the IEP development process complied with the IDEA's procedures; the second prong considers whether the IEP was reasonably calculated to enable the child to receive an educational benefit. *Id.* at 207. If both questions can be answered affirmatively, then the IEP is appropriate under the law. *Id.* Taken together, these two prongs assess whether an IEP is procedurally and substantively sound.

A. Development of the 2024 IEP

In developing a child's IEP, the IEP team must consider the "concerns of the parents for enhancing the education of their child." 34 C.F.R. § 300.324(a)(1)(iii). The IDEA's procedural requirements for developing a child's IEP are designed to provide a collaborative process that "places special emphasis on parental involvement." *Sytsema v. Acad. Sch. Dist. No. 20*, 538 F.3d 1306, 1312 (10th Cir. 2008). An IEP meeting "serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to make joint informed decisions regarding the services that are necessary to meet the unique needs of the child." *Letter to Richards*, 55 IDELR 107 (OSEP 2010). To that end, IDEA requires that parental participation be meaningful, to include addressing information about the child provided to, or by, the parents in reviewing and, as appropriate, revising a student's IEP. 34 C.F.R. §§ 300.321(a), 300.322, 300.324(b)(1).

Meaningful parent participation occurs where the IEP team listens to parental concerns with an open mind, exemplified by answering questions, incorporating some requests into the IEP, and discussing privately obtained evaluations, preferred methodologies, and placement options, based on the individual needs of the student. *O'Toole v. Olathe Dist. Schs. Unified Sch. Dist. No. 233*, 144 F.3d 692, 703 (10th Cir. 1998). Meaningful participation does not require that a district simply agree to whatever a parent has requested. *Jefferson Cnty. Sch. Dist. RE-1*, 118 LRP 28108 (SEA CO 03/22/18). However, parental participation must be more than "mere form." *R.L. v. Miami-Dade Cnty. Sch. Bd.*, 757 F.3d 1173, 1188 (11th Cir. 2014). "It is not enough that the parents are present and given an opportunity to speak at an IEP meeting." *Id.* Evidence that a district "was receptive and responsive at all stages" to the parent's position, even if it was ultimately rejected, is illustrative of parental participation. *Id.*

Here, Parent was concerned that Student was not making sufficient progress with his current literacy services, and she wanted him to receive more intensive instruction. (FF # 32.) She specifically requested a different reading curriculum and the addition of a co-taught ELA class. (*Id.*) In response to Parent's concerns before and during the October 2024 IEP team meeting, Student was moved from Case Manager 1's class to Case Manager 2's class because the latter was more familiar with elementary literacy instruction. (FF # 41.) The services in the 2024 IEP also included 200 MPW of direct instruction inside the general education ELA class, which was a new service. (FF # 35.) Shortly after the IEP team meeting, Case Manager 2 started using the JW curriculum with Student, in addition to LL. (FF # 44.)

District was responsive to Parent’s concerns and made several revisions to his IEP, including increasing services and trying different curriculums. Thus, the CDE finds and concludes that District considered Parent’s concerns for Student’s education, consistent with the requirements of 34 C.F.R. § 300.324(a)(1)(ii). District complied with the IDEA.

B. Substantive Adequacy of the 2024 IEP

An IEP must contain—among other components—a “statement of the special education and related services and supplementary aids and services, *based on peer-reviewed research to the extent practicable*, to be provided to a child.” 34 C.F.R. § 300.320(a)(4) (emphasis added). As this section makes clear, special education and related services must be based on peer-reviewed research only to the extent practicable. *Id.* Moreover, an IEP is not required to identify specific curriculum or methodology for instruction. *Id.* “[P]arents, no matter how well-motivated, do not have a right under the [IDEA] to compel a school district to provide a specific program or employ a specific methodology.” *Lachman v. Ill. State Bd. of Ed.*, 852 F.2d 290, 297 (7th Cir. 1988).

If the IEP is procedurally compliant, the specialized knowledge and expertise of the professional educators can reasonably be relied on in determining that the resulting IEP is substantively appropriate. *Sytsema v. Academy School District No. 20*, 538 F.3d 1306, 1318 (10th Cir. 2008) (relying on *Board of Educ v. Rowley*, 458 U.S. 176 (1982)). “The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created. The absence of a bright-line rule should not be mistaken for ‘an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review.’” *Andrew*, 137 S. Ct. at 992 (citing *Rowley*, 458 U.S. at 206).

“[C]ourts must be careful to avoid imposing their view of preferable education methods upon the states.” *Joshua v. Rocklin Unified Sch. Dist.*, No. CV 07-01057, 2008 WL 906243, at *3 (E.D. Cal. Mar. 31, 2008). The analysis is not on whether the district employed a methodology preferred by a parent, but rather whether the district employed an appropriate methodology. *See Stanley C. v. M.S.D. of Sw. Allen Cty. Sch.*, 628 F. Supp. 2d 902, 967 (N.D. Ind. 2008). If a district’s methodology is appropriate, the student is not denied a FAPE simply because the parents prefer a different method. *Id.*

The CDE follows this standard in its state complaint decisions. If an instructional method is determined by qualified instructors to be appropriate to a student’s needs and is found to be supported by peer-reviewed research, the CDE must defer to that determination. *See, e.g., Douglas County School District RE-1*, 79 IDELR 117 (SEA CO 5/17/21); *Denver Public Schools*, 121 LRP 43008 (SEA CO 11/19/21); *Adams County School District 14J*, 124 LRP 16298 (SEA CO 5/7/24); *Gunnison Watershed School District RE-1J*, 125 LRP 13687, (SEA CO 3/4/25).

i. District's Reading Programming

Here, Parent is concerned that District did not ensure that Student's reading intervention services were based on peer-reviewed research to the extent practicable, specifically by using LL and JW for reading instruction, instead of a curriculum like Barton or Wilson. (FF # 32.)

LL is based in the science of reading and has been found to be effective in peer-reviewed research. (FF #s 4-9.) District carefully considered Parent's request to use a different program during the 2024 IEP team meeting and, in response, began implementing lessons from JW, which was created by the people behind Wilson. (FF #s 10-12, 44.) JW is also based in the science of reading and has been shown to be effective in research. (FF # 10-12.)

The CDE recognizes Parent's preference for a program like Wilson, but it cannot engage in a comparative weighing among two appropriate teaching programs because, where a district has provided a mode of specialized instruction based upon peer-reviewed research, it does not deny FAPE simply because a parent prefers another approach. *See Stanley C.* at 967.

The CDE also acknowledges Parent's concern that Student has historically struggled to engage with online programming. (FF # 45.) District has taken steps to increase his engagement. (FF # 46.) For instance, Student was more willing to engage when other students were also working on the computer-based lessons. (*Id.*) The appropriateness of an IEP turns on the unique circumstances of the student. *Andrew*, at 92. If Student does not make appropriate progress because of a lack of engagement with the curriculum, the IEP team will need to consider changes to the programming to address any barriers, including a lack of attention. *Id.*

The CDE finds and concludes that LL and JW are based upon peer-reviewed research, consistent with the requirements of 34 C.F.R. § 300.320(a)(4). District complied with the IDEA.

Conclusion to Allegation No. 2: District did not develop the 2025 IEP at a properly convened IEP team meeting, as required by 34 C.F.R. §§ 300.320(a), 300.321(a). This resulted in a denial of FAPE.

The legal standard for developing an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances described above for Allegation No. 1 applies here. *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999 (2017). In developing a child's IEP, a properly constituted IEP team must, at a minimum, include parents, at least one general education teacher of the child, at least one special education teacher or provider of the child, a representative of District and an "individual who can interpret the instructional implications of evaluation results." 34 C.F.R. §300.321(a); *See also, St. Vrain Valley School District*, 82 IDELR 47 (SEA CO 8/17/22) (finding that the IEP development process did not comply with IDEA's procedural requirements where the goals were developed after the meeting, and without the IEP team, by parent and case manager). Although an IEP may be amended by agreement obtained through email correspondence, developing, reviewing, and revising an annual IEP via email is inconsistent with the collaborative process contemplated by the IDEA. *Denver Public*

School District 1, 77 IDELR 266 (SEA CO 2020); San Luis Valley BOCES, 123 LRP 33004 (SEA CO 7/12/23); Cherry Creek School District, 124 LRP 29286 (SEA CO 7/8/24).

A. Development of the 2025 IEP

Here, Parent's concern is that substantial portions of the 2025 IEP were developed or changed after the April 2025 IEP team meeting and not by a properly convened IEP team.

The CDE finds and concludes that the development process for the 2025 IEP did not comply with the IDEA's procedures for the following reasons. First, the IEP team considered removing Student's push-in services in the co-taught ELA class. (FF # 94.) Ultimately, the IEP team agreed to keep the services. (FF #s 94, 97.) Nevertheless, the 2025 IEP includes half the push-in minutes compared to the 2024 IEP. (FF #s 35, 96.) Without an IEP team discussion, the pullout services were also reduced. (FF #s 95, 96.) The 2025 IEP currently includes 200 MPW when classes will be meeting for 225 MPW. (*Id.*)

Second, the IEP team agreed Student needed a new writing goal, but it did not develop one together. (FF # 87.) Parent asked to review updated progress monitoring data before considering the reading goals and she asked for a new IEP team meeting if new goals were going to be developed. (FF #s 86, 88.) Instead, Case Manager 2 and Coordinator wrote new goals after the meeting and without the IEP team. (FF # 89.) Drafts of these new goals were not reviewed by Parent or other members of the IEP team. (*Id.*) Student's writing goal was one he had met in October 2024, and the reading goals are not clear enough that an unfamiliar teacher could implement them and assess progress. (FF #s 90-91.) While it may be appropriate to refine language over email when substantive agreement has been reached at the IEP team meeting, email should not be used to achieve substantive agreement. District should have scheduled an additional IEP meeting if they wished to consider substantive changes to what was discussed at the April 2025 IEP team meeting. *San Luis Valley BOCES, 123 LRP 33004 (SEA CO 7/12/23).*

Third, several accommodations were removed from the 2025 IEP outside of the IEP process. (FF #s 92-93.) Case Manager 2 made several changes to the accommodations based on conversations that happened outside of the meeting. (FF # 92.)

Fourth, as further evidence that changes were made to the 2025 IEP after the IEP team meeting, NWEA test results that did not exist at the time of the 2025 IEP team meeting were included in the present levels of the 2025 IEP. (FF # 81.)

Finally, across multiple interviews, there was little agreement about what was discussed and agreed upon during the 2025 IEP team meeting. (FF # 79.) No disagreements were reflected in the parent input section or any other contemporaneous records and only two agreements were noted in the PWN. (FF #s 80-97.) This lack of agreement reinforces the CDE's finding that the 2025 IEP does not reflect the agreement of the IEP team.

Overall, because the 2025 IEP does not reflect some of the IEP team’s decisions and revisions were made outside of the IEP process, the CDE finds and concludes that the 2025 IEP was not developed at a properly convened IEP team meeting, as required by 34 C.F.R. §§ 300.320(a), 300.321(a). Thus, the IEP development process did not comply with the IDEA’s procedures and did not pass the first prong of the Supreme Court’s test. *Rowley*, at 207. Since portions of the 2025 IEP were not developed by a properly constituted IEP team and the 2025 IEP has not yet been implemented, the CDE will not turn to the second prong and consider the substantive adequacy of the 2025 IEP. *Rowley*, at 207.

B. Procedural Noncompliance

The United States Supreme Court has stressed the importance of complying with the IDEA’s procedural requirements. *Bd. Of Educ. v. Rowley*, 458 U.S. 176, 205-06 (1982). However, procedural noncompliance is only actionable to the extent it impedes the child’s right to a FAPE, significantly impedes the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE or causes a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).

Here, the 2025 IEP was finalized five days before the end of the school year. (FF #s 101.) Since it was not implemented, it could not have impeded Student’s right to a FAPE or resulted in a deprivation of educational benefit. However, several revisions were made to the 2025 IEP outside of the IEP team meeting on April 18, 2025. (FF #s 80-97.) District did not ensure Parent participated in those revisions, which significantly impeded her opportunity to participate in the decision-making process. Thus, the CDE finds and concludes this resulted in a denial of FAPE.

Conclusion to Allegation No. 3: District made Student’s 2023 and 2024 IEPs accessible to his providers, from August 2024 to present, as required by 34 C.F.R. § 300.323(d). District did not fully implement Student’s 2024 IEP, from August 2024 to present, as required by 34 C.F.R. § 300.323(c). This resulted in a denial of FAPE.

A. Accessibility of and Responsibilities for Student’s IEP

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.* 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).

Here, District case managers are responsible for ensuring teachers and other service providers are aware of their responsibilities under a student’s IEP. (FF # 13.) Case Manager 1 shared Student’s 2023 IEP snapshot with his teachers at the start of the year. (FF #s 15, 16.) She also shared a document highlighting his accommodations and touched base with teachers regularly. (*Id.*) Additionally, Case Manager 2 shared Student’s IEP snapshot with the general education teachers via email three times in the first month of school and reminded teachers of the importance of providing all of students’ accommodations. (FF #s 17, 18.) Case Manager 1 also shared the 2024 IEP with teachers after she finalized it. (FF #s 38, 39.) For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

B. Implementation of the Specialized Instruction in Student’s IEP

Parent’s concern is District did not implement Student’s specialized literacy instruction, from August 2024 through February 2025, because half the class time was devoted to math instruction.

i. 2023 IEP

From August through October 15, 2024, the 2023 IEP required 120 MPW of direct multisensory instruction in reading and 120 MPW of direct instruction in writing, to be delivered outside of general education. (FF #s 14, 19, 41.) Across 8.5 weeks of school during that time, the Student was entitled to 2,040 minutes of instruction in reading and writing. (FF # 19.)

Student was enrolled in a special education class with Case Manager 1 that met for 2,150 minutes. (FF # 21.) In class, Student worked on individualized LL lessons on the computer. (FF # 22.) Case Manager 1 also taught lessons using LL workbooks and read with students. (*Id.*) However, about half the class minutes were devoted to math. (FF # 23.) Since Student did not require math instruction, he was encouraged to continue with LL lessons or read independently. (*Id.*) Student disliked LL, but math was a preferred subject. (*Id.*) As a result, he frequently asked to participate in the math lessons. (*Id.*)

Independent work that is individualized and directly tied to a student’s needs and coupled with immediate feedback can be specialized instruction. *See Denver Public Schools*, CDE Decision 2022:547 (November 2022). In this case, the CDE finds the LL lessons, which were targeted to Student’s level based on assessment results, were direct instruction in reading and writing. (FF # 22.) However, because the math lessons were not, the CDE finds and concludes that District did not fully implement the 2023 IEP’s 120 MPW of direct instruction in reading and 120 MPW of direct instruction in writing, as required by 34 C.F.R. § 300.323(c).

ii. 2024 IEP

From October 15, 2024 through February 5, 2025, the 2024 IEP required 240 MPW of direct instruction in “basic reading skills, reading comprehension, reading fluency, and written expression.” (FF #s 40, 47.) Student was enrolled in a special education class with Case Manager 2 that devoted half the time to math. (FF #s 41, 45.) Student was again encouraged to work on LL or practice reading. (FF #s 45, 46.) However, Student was reluctant to work independently, especially if he was the only one doing so. (*Id.*) Instead, Case Manager 2 would have Student work on reading math problems or teaching other students. (*Id.*) The CDE finds that independent work on LL, which was targeted to Student’s level based on assessment results, was specialized literacy instruction. However, the math lessons were not.

Starting February 6, 2025, the class focused exclusively on direct literacy instruction. (FF # 47.) Overall, because Student spent some of his time participating in math lessons, the CDE finds and concludes that District did not fully implement the specialized literacy instruction in the 2023 and 2024 IEPs from August 2024 through February 5, 2025, as required by 34 C.F.R. § 300.323(c).

C. Implementation of the Accommodations in Student’s IEP

Here, implementation of five accommodations is disputed: (1) “Access to speech-to-text/text to speech on all district technology devices;” (2) “Access to a headset with a noise canceling microphone for speech to text software;” (3) “In addition to the note-catcher/fill-in-the blank note taking options, an example note sheet provided to enable note taking completion and accuracy;” (4) “Access to vocabulary word list for concurrent units of study for writing tasks;” and (5) “1-1 chromebook or device relevant to school setting (student assigned-school owned) access for specific speech-to-text and text to speech software programs and applications.”(FF #s 49-72.)

From October 2024 to present, District provided accommodations one through four from above, consistent with the IEP. (FF #s 49-65.) From March 6, 2025 to the end of the 2024-2025 school year, District did not provide Student with a 1-1 Chromebook or student-assigned device. (FF #s 66-72.) Instead, Case Manager 2 showed him where to find the speech-to-text and text-to-speech programs he needed on any computer. (FF # 69.) Student could not consistently access or use his speech-to-text and text-to-speech applications on the various Chromebooks he had in class. (FF # 70.) Thus, the CDE finds and concludes that District did not implement this accommodation in the 2024 IEP, from March 6, 2024 to the end of the school year, as required by 34 C.F.R. § 300.323(c).

D. Materiality of Failure to Implement

Where the definition of a FAPE specifically references delivery of special education and related services consistent with an IEP, the failure to implement an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.19. However, not every deviation from an IEP’s requirements results in a denial of a FAPE. *See, e.g., L.C. and K.C. v. Utah State Bd. of Educ.*, 125 Fed. App’x 252, 260 (10th Cir. 2005) (holding that minor deviations from the IEP’s requirements which did not

impact the student's ability to benefit from the special education program did not amount to a "clear failure" of the IEP); *T.M. v. Dist. of Columbia*, 64 IDELR 197 (D.D.C. 2014) (finding "short gaps" in a child's services did not amount to a material failure to provide related services).

Thus, a "finding that a school district has failed to implement a requirement of a child's IEP does not end the inquiry." *In re: Student with a Disability*, 118 LRP 28092 (SEA CO 5/4/18). Instead, "the SCO must also determine whether the failure was material." *Id.* Courts will consider a case's individual circumstances to determine if it will "constitute a material failure of implementing the IEP." *A.P. v. Woodstock Bd. of Educ.*, 370 Fed. App'x 202, 205 (2d Cir. 2010). The omission of a "material," "essential," or "significant" provision of a student's IEP amounts to a denial of a FAPE. *See, e.g., Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007) (concluding consistent with "sister courts . . . that a material failure to implement an IEP violates the IDEA"); *Neosho R-V Sch. Dist. v. Clark*, 315 F.3d 1022, 1027 (8th Cir. 2003) (holding that failure to implement an "essential element of the IEP" denies a FAPE); *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000) (ruling that failure to implement the "significant provisions of the IEP" denies a FAPE). "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP." *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007). The materiality standard "does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided." *Id.*

Here, for six months in a ten-month school year, half the direct instruction in Student's special education class was provided on math instead of literacy. While he sometimes continued to receive individualized instruction through LL, he often participated in the math lessons instead. (FF #s 23, 45.) During that period, Student's score on a nationally normed assessment decreased relative to spring and fall 2024. (FF # 77.) Student dropped below his baseline on all three 2024 IEP reading goals in November and December 2024. (FF #s 101-106.)

Student also did not have access to a 1-1 Chromebook or student-assigned device for slightly more than one quarter of the year. (FF #s 66-72.) This impacted his access to speech-to-text and text-to-speech software, making it harder for him to complete work in his general education classes. (FF # 70.) Student's grades dropped in three core classes that semester. (FF # 71.)

For these reasons, the CDE finds and concludes that this noncompliance was material and resulted in a denial of FAPE.

E. Compensatory Services

Compensatory services are an equitable remedy intended to place a student in the same position he would have been in if not for noncompliance. *Reid v. Dist. of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005). Compensatory services need not be an "hour-for-hour calculation." *Colo. Dep't of Educ.*, 118 LRP 43765 (SEA CO 06/22/18). The guide for any compensatory award should be the stated purposes of the IDEA, which include providing children with disabilities a FAPE that meets

the particular needs of the child, and ensuring children receive the services to which they are entitled. *Ferren C. v. Sch. Dist. of Phila.*, 612 F.3d 712, 717-18 (3d Cir. 2010).

Here, Case Managers 1 and 2 were providing math instruction, instead of literacy instruction, for 41 hours. (FF #s 19-24, 45-48.) However, Student spent some of that time receiving specialized instruction through targeted lessons on LL. (FF #s 23, 45, 46.) District has proactively provided Student with 20 hours of compensatory services to address this gap. (FF # 107-110.) These services were provided in a more intensive 1:1 setting, rather than in a small group. (FF # 108.) During this time, Student made progress on 11 of the 12 areas assessed by the WADE Assessment. (FF # 110.) The CDE finds and concludes that no further compensatory services are required.

Systemic IDEA Noncompliance: This investigation does not demonstrate noncompliance that is systemic in nature. 34 C.F.R. § 300.151(b)(2).

Pursuant to its general supervisory authorities, CDE must also consider and ensure the appropriate future provision of services for all IDEA-eligible students in the district. 34 C.F.R. § 300.151(b)(2). Indeed, the U.S. Department of Education has emphasized that the state complaint procedures are “critical” to the State Enforcement Agency’s “exercise of its general supervision responsibilities” and serve as a “powerful tool to identify and correct noncompliance with Part B.” *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

Here, the 2024 IEP was developed at a properly convened IEP team meeting. (FF #s 27-37.) Nothing in the Record suggests that District has a practice of developing IEPs outside of the IEP team meeting. Similarly, nothing in the Record suggests that the implementation noncompliance is systemic. Rather, Student’s participation in math instruction was driven by his preference for math and reluctance to work independently on the computer-based lessons. Thus, the CDE finds and concludes that the noncompliance is not systemic.

REMEDIES

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

1. Developing the IEP at a properly convened IEP team meeting, as required by 34 C.F.R. §§ 300.320(a), 300.321(a).
2. Implementing the IEP, as required by 34 C.F.R. § 300.323.

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

1. Corrective Action Plan

- a. By **September 15, 2025**, District shall submit to the CDE a corrective action plan (“CAP”) that adequately addresses the noncompliance noted in this Decision. The

CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom District is responsible. The CDE will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, the CDE will arrange to conduct verification activities to confirm District's timely correction of the areas of noncompliance.

2. Final Decision Review

- a. Director, Compliance Consultant, Coordinator and Case Manager 2 must read this Decision in its entirety, as well as review the requirements of 34 C.F.R. §§ 300.320(a), 300.321(a) and 300.323, by **Friday, September 26, 2025**. If these individuals are no longer employed by District, the District may substitute individuals occupying identical roles to demonstrate compliance with this remedy. A signed assurance that this information has been read and reviewed must be provided to the CDE by **Friday, October 3, 2025**.

3. IEP Team Meeting

- a. District must convene Student's IEP team, at a mutually agreeable date and time, by **Friday, September 19, 2025**. In consideration of all recent evaluations of Student and the concerns identified in this Decision, Student's IEP team must review, and as appropriate, revise Student's IEP, including present levels, goals, services and accommodations, consistent with 34 C.F.R. § 300.324 and ECEA Rule 4.03(8).
- b. If Parent refuses to participate in the IEP meeting, District may convene a meeting without Parent, provided District diligently attempts to secure Parent's participation at a mutually agreeable time and place and documents such efforts. A determination that District diligently attempted to secure Parent's participation rests solely with the CDE.
- c. By **Friday, October 3, 2025**, District must provide notice of the IEP meeting, proof the meeting was scheduled at a mutually agreeable date and time, proof of attendance of IEP Team members (such as a signature page), evidence of the IEP team discussion (such as detailed meeting notes or an audio recording) and a finalized IEP to the CDE.

Please submit the documentation detailed above to the CDE as follows:

Colorado Department of Education
Exceptional Student Services Unit
Attn.: CDE Special Education Monitoring and Technical Assistance Consultant
201 E. Colfax Avenue
Denver, CO 80203

NOTE: If District does not meet the timelines set forth above, it may adversely affect District's annual determination under the IDEA and subject District to enforcement action by the CDE.

CONCLUSION

The Decision of the CDE is final and is not subject to appeal. *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 15th day of August, 2025.



Rachel Dore
Senior State Complaints Officer

APPENDIX

Complaint, pages 1-26

Response, pages 1-15

- Exhibit A: IEPs
- Exhibit B: Evaluation
- Exhibit C: Service Logs
- Exhibit D: Consent for Evaluation
- Exhibit E: PWN
- Exhibit F: None
- Exhibit G: Attendance
- Exhibit H: Progress Monitoring
- Exhibit I: None
- Exhibit J: Remedial Actions
- Exhibit K: Calendar
- Exhibit L: District Policies and Procedures
- Exhibit M: Correspondence
- Exhibit N: Evaluation

Reply, pages 1-24

- Exhibit 1: Contemporaneous Notes

CDE Exhibits

- CDE Exhibit 1: LANGUAGE! Live
- CDE Exhibit 2: Advisory List
- CDE Exhibit 3: Study
- CDE Exhibit 4: Bell Schedule

Telephone Interviews

- Coordinator: July 23, 2025
- Computer Teacher: July 23, 2025
- Case Manager 1: July 23, 2025
- Case Manager 2: July 23, 2025
- Specialist: July 23, 2025
- Compliance Consultant: July 23, 2025
- Parent: July 24, 2025
- Advocate 1: July 25, 2025
- Advocate 3: July 29, 2025
- Advocate 2: July 31, 2025