

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

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**State Complaint SC2025-592**  
**Littleton Public Schools**

**DECISION**

**INTRODUCTION**

On July 8, 2025, the guardian (“Complainant”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> filed a state complaint (“Complaint”) against Littleton Public Schools (“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 final written decision serves to identify areas for professional growth, provide guidance for implementing IDEA requirements, and draw on all available resources to enhance the quality and effectiveness of special education services.

**RELEVANT TIME PERIOD**

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after July 8, 2024. Information prior to July 8, 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)<sup>2</sup> of the IDEA:

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<sup>1</sup> 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.

<sup>2</sup> The CDE’s state complaint investigation determines if the 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. The District did not develop an Individualized Education Program (“IEP”) that was tailored to meet Student’s individualized needs between August 2024 and March 2025 because it:
  - a. Did not consider the use of positive behavioral interventions and supports, and other strategies to address behavior impeding Student’s learning or that of others, as required by 34 C.F.R. § 300.324(a)(2)(i).
2. The District did not review and, as appropriate, revise Student’s IEP between August 2024 and March 2025 to address Student’s lack of expected progress on his annual goals, as required by 34 C.F.R. § 300.324(b).
3. The District did not fully implement Student’s IEP between August 2024 and May 2025 because it:
  - a. Did not provide Student with the paraprofessional support listed in the IEP, as required by 34 C.F.R. § 300.323(c).

### **FINDINGS OF FACT**

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

#### **A. Background**

1. During the 2024-2025 school year, Student attended third grade at a District elementary school (“School”). *Interview with Complainant.*
2. Student qualifies for special education and related services under the disabilities categories of Autism Spectrum Disorder (“ASD”), Other Health Impairment (“OHI”), and Specific Learning Disability (“SLD”). *Exhibit A, p. 26.*
3. Student is a likeable young man who places a high value on his relationships with both peers and adults. *Interviews with Complainant, School Psychologist, Special Education Teacher, and Third Grade Teacher (“Teacher”).* He is empathetic and inquisitive. *Id.* Student enjoys math and reading for pleasure, while writing poses the greatest challenge for him at School. *Id.* Student has a strong sense of justice. *Id.* If he feels that he has been wronged by a peer or that a peer has not been held accountable, he can become upset. *Id.*

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<sup>3</sup> The appendix, attached and incorporated by reference, details the entire Record.

## **B. Student's 2023 IEP**

4. The 2024-2025 school year began on August 13, 2024. *Exhibit J*, p. 1. At that time, Student's IEP dated October 18, 2023 and amended May 15, 2024 ("2023 IEP") was in effect. *Exhibit A*, pp. 105-129.
5. The 2023 IEP reviewed Student's present levels of performance, noting math was Student's strongest subject. *Id.* at p. 88. His number sense, computation skills, and math problem solving were on grade level. *Id.* Student performed below grade level in both reading and writing. *Id.* at pp. 87-88. The prior school year, Student met a communication goal, partially met communication and literacy goals, and made progress on his social/emotional goals. *Id.* at pp. 83-89. Per staff, Student's "window of tolerance" had increased and the time it took him to "re-regulate" had decreased. *Id.* at p. 83. Student "respond[ed] to simple redirection, [could] sustain focus for short periods of time, and follow[ed] classroom routines." *Id.* at p. 83.
6. As noted in the 2023 IEP, Student's disabilities each impacted his ability to access and make progress in the general education curriculum. *Id.* at p. 90. His ASD affected Student's communication, social skills, and emotional regulation. *Id.* Additionally, his ADHD made it difficult for him to stay focused and pay attention in the classroom. *Id.* Finally, Student's SLD in reading prevented him from reading grade level content independently. *Id.*
7. The 2023 IEP indicated that Student did not exhibit behavior warranting a behavior intervention plan ("BIP"). *Id.* at p. 91.
8. The 2023 IEP contained annual goals in the areas of social/emotional wellness, physical motor, reading, writing, and communication. *Id.* at pp. 91-95.
9. The 2023 IEP included nearly 25 accommodations designed to improve Student's access to the general education curriculum, including, in part: access to a break space, use of a reward system, flexible seating, adult modeling/teaching of problem-solving strategies, and movement breaks. *Id.* at p. 95.
10. The 2023 IEP required Student to receive the following specialized instruction and related services:
  - **Specialized Instruction:**
    - **Reading:** 120 minutes per week of direct reading instruction provided by a special education teacher or paraprofessional outside the general education classroom.
    - **Writing:** 120 minutes per week of direct writing instruction provided by a special education teacher or paraprofessional inside the general education classroom.

- Physical Motor Services:
  - 180 minutes per month of direct physical motor services provided by an occupational therapist outside the general education classroom.
- Social/Emotional Services:
  - 120 minutes per month of direct social emotional services provided by a school psychologist outside the general education classroom.
- Speech Language Services:
  - 120 minutes per month of direct speech language services provided by a speech language pathologist outside the general education classroom.

*Id.* at pp. 98-99. Student also received indirect specialized instruction and physical motor services outside the general education classroom. *Id.*

11. Under the 2023 IEP, Student spent 89% of his time in the general education environment. *Id.* at p. 100.
12. In May 2024, the IEP Team amended the 2023 IEP to move Student’s specialized reading instruction from outside the general education classroom to inside the general education classroom. *Id.* at p. 98. “[Student] has met his goals and objectives in the area of reading. The team agreed based on growth toward grade level standards (reading at a mid 2nd grade level and on grade level overall scores on I-Ready) . . . that [Student’s] services in reading outside of the classroom will no longer continue.” *Id.*

### **C. Beginning of 2024-2025 School Year**

13. Typically, School had three third grade classrooms. *Interview with Principal.* However, prior to the start of the 2024-2025 school year, the students needed to be divided into four classrooms to maintain the District’s student-to-teacher ratio. *Id.*
14. The reduction in class sizes meant third grade would have a single shared general education paraprofessional amongst the four classes. *Id.* All other grades (except fifth grade) benefitted from a paraprofessional in each classroom. *Id.* Previously, Student’s teachers in kindergarten through second grade had a dedicated general education paraprofessional in the classroom. *Id.*
15. Neither teachers nor special education staff were privy to the third-grade class lists until right before the school year started. *Interviews with Teacher and Special Education Teacher.* Special Education Teacher recalled “immediately” having concerns when she saw Teacher’s class list and that her concerns grew with each day. *Interview with Special Education Teacher.*

16. Student and one of his peers (“Peer”) were placed in the same class for third grade. *Interviews with Principal and Teacher*. These two students shared a kindergarten class but had to be separated partway through the school year due to conflict. *Interviews with Complainant and School Psychologist*. They had not been in the same class since kindergarten. *Id.*
17. Teacher, School Psychologist, and Special Education Teacher contacted Principal and Assistant Principal to express concern regarding Student and Peer being in the same class. *Interviews with Principal, School Psychologist, Special Education Teacher, and Teacher*. Principal and Assistant Principal dismissed their concerns, responding that children change and that staff should not assume that the arrangement would not work. *Id.* Complainant also requested that Student and Peer be in separate classes, but Principal declined to make any changes to the class roster. *Interview with Complainant and Principal*.
18. Most of Student’s friends from second grade and his classmates who were supportive of his disability-related needs were not in Student’s second-grade class. *Interview with School Psychologist*.

#### **D. Student’s Behavior**

19. Staff saw a “dramatic” increase in the frequency and intensity of Student’s dysregulation during Fall 2024. *Interview with Special Education Teacher*.
20. The first few days, Student was excited to be back at School. *Interviews with School Psychologist and Teacher*. After that, school became a struggle for Student. *Interviews with Complainant and Teacher*. Several students in Teacher’s class had challenging behavior, so the classroom was often chaotic. *Interview with Teacher*. The chaos of the classroom made it difficult for Teacher to get through his lessons and help students with their academic work. *Id.*
21. Peer deliberately hassled Student, which often resulted in other students joining in. *Interview with Teacher*. Staff felt as if Peer knew how to push Student’s buttons and upset him. *Interviews with Special Education Teacher and Teacher*. School Psychologist and Special Education Teacher described Peer’s behavior as “heckling”, “targeting”, and “teasing.” *Interviews with School Psychologist and Special Education Teacher*. Examples included mocking Student for wearing headphones in the class due to his sensory needs and for not immediately complying with Teacher’s instructions (like putting away a Chromebook). *Interviews with School Psychologist and Teacher*.
22. These comments by Peer and other students agitated Student. *Interviews with School Psychologist, Special Education Teacher, and Teacher*. Sometimes, Student recovered quickly. *Id.* Other times, Student would yell and become physically aggressive. *Id.* On occasion, Teacher had to clear the room or find a way for Student to leave the room for a break. *Interview with Teacher*. Staff had not seen this type of yelling and aggression during Student’s previous years at School. *Interview with Special Education Teacher*.

### **E. Response to Student's Behavior**

23. School staff responded to Student's behavior with a variety of interventions during Fall 2024. *Interview with School Psychologist.* If a staff member recognized and responded to Student's agitation early enough, it was often possible to prevent any further escalation. *Id.* This proved to be difficult for Teacher without any other help in the classroom, especially given the behavioral needs of the students in his classroom. *Interview with Teacher.* Even though School had funding for a grade-level paraprofessional, no paraprofessional had been hired for third grade at the start of the school year. *Interviews with Principal and School Psychologist.*
24. Early on, School Psychologist, Special Education Teacher, and Teacher saw that Student needed more support. *Interviews with School Psychologist, Special Education Teacher, and Teacher.* Special education team members, including Special Education Teacher, School Psychologist, Speech Language Pathologist, and others, created a schedule to push in to Student's classroom to help with Student's engagement and diffuse social issues. *Interview with School Psychologist.* Staff prompted Student to stay on task; otherwise, staff would give him space and walk around the room. *Id.* At times, staff stood in a spot that physically blocked Peer's view of Student. *Interview with Special Education Teacher.*
25. Staff created a space for Student at the back of the classroom—his preferred seating location—with some of his things: a bookshelf with books of interest, his headphones, some fidgets, and a stoplight poster for emotional regulation created by Student and his private therapist. *Id.*
26. During this time, staff used a reward system to reinforce positive behavior. *Interview with School Psychologist.* The reward system aligned with one being used by Complainant at home. *Id.* When Student had positive behavior—even the smallest behavior—he was given a token that he took home for a reward from Complainant. *Id.*
27. Staff encouraged Student to take breaks, either in School Psychologist's office or the special education space. *Interviews with School Psychologist and Special Education Teacher.* During a break, Student used sensory tools, like kinetic sand and connector toys, or read a book to deescalate. *Interview with School Psychologist.* The breaks often lasted between 10 to 30 minutes. *Id.*
28. School staff also sought guidance from the District's ACCESS team in early October 2024. *Interview with School Psychologist.* A behavior specialist observed Student and provided School staff with some suggestions regarding Student's behavior. *Interviews with School Psychologist and Special Education Teacher.* These suggestions included giving limited choices, using declarative language, using indirect language, and using humor. *Exhibit E, p. 11.*

29. Though School staff worked diligently to implement these behavioral supports and strategies, Student's struggles with dysregulation and work refusal persisted throughout Fall 2024. *Interviews with School Psychologist, Special Education Teacher, and Teacher.*

#### F. Development of 2024 IEP

30. Meanwhile, on October 16, 2024, the District convened Student's IEP Team for his annual review. *Exhibit H*, p. 1. This meeting resulted in an IEP dated October 16, 2024 ("2024 IEP"). *Exhibit A*, pp. 3-25.

31. The 2024 IEP reviewed Student's present levels of performance, noting that Student had not met his annual goals in the areas of social/emotional wellness, communication, speech, and writing. *Id.* at pp. 6-11. However, Student made progress on several goals, even meeting some of the objectives. *Id.* Student's progress lacked in other areas. *Id.* The notes regarding Student's writing goal stated that Student had "shown regression in the areas of persistence, engagement, and participation of writing activities." *Id.* at p. 11. One writing objective could not be assessed due to Student's refusal. *Id.* Similarly, one of Student's social-emotional goals targeted his ability to communicate feelings and needs using an appropriate volume in the general education setting. *Id.* at p. 7. By the end of the one-year period, Student demonstrated that skill in 0% of opportunities, despite his 80% goal. *Id.*

32. The statement regarding Student's needs and the impact of his disabilities remained unchanged from the 2023 IEP to the 2024 IEP. *Id.* at p. 12.

33. Like the 2023 IEP, the 2024 IEP indicated that Student did not need a BIP. *Id.* at p. 13. Staff did not recall the team considering development of a BIP during the meeting. *Interviews with School Psychologist and Special Education Teacher.* At that point, staff felt Student's dysregulation largely resulted from "environmental factors." *Interview with School Psychologist.*

34. The 2024 IEP contained new annual goals in the areas of social/emotional wellness, physical motor, writing, communication, reading, and math. *Exhibit A*, pp. 13-18. No math goals were in the 2023 IEP. *Id.* at pp. 91-95.

35. The 2024 IEP largely duplicated the accommodations included in the 2023 IEP, while adding accommodations for a larger space for writing and modified/abbreviated reading, writing, and math assignments. *Id.* at p. 19.

36. The 2024 IEP required Student to receive the following specialized instruction and related services:

- Specialized Instruction:

- Reading: 120 minutes per week of direct reading instruction provided by a special education teacher or paraprofessional inside the general education classroom.
- Writing: 150 minutes per week of direct writing instruction provided by a special education teacher or paraprofessional inside the general education classroom.
- Math: 120 minutes per week of direct math instruction provided by a special education teacher or paraprofessional inside the general education classroom.
- Physical Motor Services:
  - 120 minutes per month of direct physical motor services provided by an occupational therapist outside the general education classroom.
- Social/Emotional Services:
  - 120 minutes per month of direct social emotional services provided by a school psychologist outside the general education classroom.
- Speech Language Services:
  - 120 minutes per month of direct speech language services provided by a speech language pathologist outside the general education classroom.

*Id.* at pp. 22-23. Student also received indirect physical motor services outside the general education classroom. *Id.* The increase in Student's specialized instruction was due to his academic needs, as well as his need for additional social/emotional support in the classroom. *Interviews with School Psychologist and Special Education Teacher.* Student had not previously received any specialized math instruction. *Interview with Special Education Teacher.*

37. Under the 2024 IEP, Student spent 95% of his time in the general education environment. *Id.* at p. 24.

#### **G. December 2024 Incident**

38. On December 20, 2024, Student became dysregulated when he could not navigate to the website he wanted. *Id.* at p. 12. A classmate tried to help but did not understand which website Student wanted and took him to the wrong website. *Id.* Student then headbutted, pushed, and hit multiple staff members who came to the classroom to help him regulate. *Id.* At one point, Student threatened self-harm and placed his hands around his own neck. *Id.*

This incident lasted approximately 50 minutes. *Id.* Afterwards, the District completed a suicide risk assessment and a threat assessment. *Id.* at pp. 12-19.

39. Following the December incident, School created a personal safety plan for Student. *Exhibit D*, p. 22. This one-page document outlined coping strategies Student could use during a crisis. *Id.*

#### **H. Changes to Student's Classroom**

40. In January 2025, Principal moved Peer to a different third-grade classroom. *Interviews with Principal and Teacher*. This move occurred only after Peer's parent requested the change. *Interview with Special Education Teacher*.
41. Student's demeanor changed without Peer in his classroom. *Interviews with School Psychologist, Special Education Teacher, and Teacher*. Student still had behavioral challenges; however, those behaviors decreased in severity. *Id.* The escalations involving screaming and aggression ceased. *Id.* Though Student still struggled to engage in his work, he was able to receive more instruction due to the decrease in his escalations. *Id.*

#### **I. Development of Student's BIP and 2025 IEP**

42. On January 8, 2025, the District sought consent to evaluate from Complainant to complete a functional behavior assessment ("FBA") and develop a BIP. *Exhibit I*, pp. 1-2. Complainant provided consent, and the FBA was completed on January 19, 2025. *Exhibit E*, pp. 3-11.
43. On March 17, 2025, Student's IEP Team met to review his IEP and develop a BIP based on the FBA. *Exhibit H*, p. 3. That meeting resulted in an IEP dated March 17, 2025 ("2025 IEP") and a BIP dated March 18, 2025. *Exhibit A*, pp. 26-55; *Exhibit B*, pp. 1-10. Student's BIP targeted his verbal outbursts and aggression (while noting that no aggression had occurred since January 2025). *Id.* at p. 2. Based on the FBA, the BIP hypothesized that these behaviors occurred in response to negative peer reactions, amongst other causes. *Id.*
44. The 2025 IEP significantly increased Student's specialized instruction and related services. *Id.* at p. 52. Under the 2025 IEP, Student required the following:
- Specialized Instruction:
    - Reading:
      - 90 minutes per week of direct specialized reading instruction provided by a special education teacher or paraprofessional outside the general education classroom; and

- 120 minutes per week of direct specialized reading instruction provided by a special education teacher or paraprofessional outside the general education classroom.
  - Writing:
    - 80 minutes per week of direct specialized writing instruction provided by a special education teacher or paraprofessional outside the general education classroom; and
    - 100 minutes per week of direct specialized writing instruction provided by a special education teacher or paraprofessional outside the general education classroom.
  - Math:
    - 100 minutes per week of direct specialized math instruction provided by a special education teacher or paraprofessional outside the general education classroom; and
    - 100 minutes per week of direct specialized math instruction provided by a special education teacher or paraprofessional outside the general education classroom.
- Physical Motor Services:
  - 60 minutes per month of direct motor services provided by an occupational therapist outside the general education classroom; and
  - 120 minutes per month of direct motor services provided by an occupational therapist inside the general education classroom.
- Social/Emotional Services: 120 minutes per month of direct social/emotional services provided by a school psychologist outside the general education classroom.
- Speech Language Services: 120 minutes per month of direct speech language services provided by a speech language pathologist outside the general education classroom.
- Personal Care Services: 465 minutes per week of direct personal care services for supervision and monitoring provided by a special education teacher, special education paraprofessionals, service learning support providers, and, if needed, general education paraprofessionals.

*Id.* at pp. 53-54.

45. As a result of the increase in Student’s services, his time in the general education environment decreased to 83%. *Id.* at p. 54.

### **J. Student’s Progress**

46. Between October 2024—when the 2024 IEP was developed—and March 2025—when the 2025 IEP was developed—Student made progress on nearly all of his annual goals despite his behavioral challenges. *Exhibit A*, pp. 29-40; *Exhibit F*, pp. 2-8. Student only had one-half of a school year to work on these goals so he could not be expected to have met his goals. *Interview with Special Education Teacher.*

47. Complainant asserted that Student’s i-Ready assessments showed he regressed during third grade. *Interview with Complainant.* District elementary school students complete i-Ready assessments in literacy and math three times per school year. *Interview with Assistant Director of Student Support Services (“Assistant Director”).*

48. Assistant Director claimed Student’s numerical scores from second grade and third grade could not be compared due to testing differences. *Id.* However, i-Ready publishes placement tables which allow educators and parents to track a student’s growth within and across school years by comparing scores vertically. *Id.*

49. Student scored 501 on his final i-Ready reading assessment of second grade. *Exhibit G*, p. 6. This score placed him at a second-grade reading level and in the 47th percentile. *Id.* Student’s final score in third grade was 492. *Id.* at p. 10. This score indicated Student was “approaching Grade 3” and in the 27th percentile. *Id.* Scores for students at grade level ranged from 511-602. *Id.*

50. Similarly, Student scored 435 on his final i-Ready math assessment of second grade. *Exhibit G*, p. 8. This score placed him at a second-grade level and in the 52nd percentile. *Id.* Student’s final score in third grade was 434. *Exhibit 16*, p. 1. This score indicated Student was “approaching Grade 3” and in the 29th percentile. *Id.*

51. The i-Ready placement chart shows that Student’s second grade scores—both in reading and in math—were equivalent to his scores at the end of third grade. *CDE Exhibit 1*, pp. 11, 21. That is, Student showed no growth in either subject on his i-Ready assessments in third grade. *Id.*

52. Complainant raised her concerns about regression with the District at the end of the 2024-2025 school year. *Interviews with Assistant Director and Complainant.* Though the District believed Student made progress, the District agreed to pay for Student to receive up to 22 hours of private literacy tutoring during Summer 2025. *Id.*; *Exhibit I*, pp. 4-5. Student participated in 15 hours of tutoring. *Interview with Complainant.*

## CONCLUSIONS OF LAW

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

**Conclusion to Allegation No. 1: The District did not develop an IEP that was tailored to meet Student’s individualized needs during Fall 2024, because it did not consider the use of positive behavioral interventions and supports, as required by 34 C.F.R. §§ 300.324(a)(2)(i). This noncompliance resulted in a denial of FAPE.**

The Complaint’s first allegation concerns the development of Student’s IEP in October 2024. Specifically, Complainant asserted that the District did not adequately consider the use of behavioral supports and strategies in response to Student’s behavior.

### **A. Legal Standard for IEP Development**

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)). The IDEA requires districts to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances. *Andrew F.*, 137 S. Ct. at 999.

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 the answer to the question under each prong is yes, then the IEP is appropriate under the law. *Id.* Taken together, these two prongs assess whether an IEP is procedurally and substantively sound. *Id.*

Complainant’s allegation relates only to the substantive adequacy of Student’s IEP.

### **B. Substantive Adequacy of the 2024 IEP**

Under the IDEA, an IEP team must consider the use of positive behavioral interventions and supports whenever a student’s behavior interferes with the student’s ability to benefit from his educational programming. 34 C.F.R. § 300.324(a)(2)(i). This includes where the consequences of a child’s behavior, including “violations of a school’s code of student conduct, classroom disruptions, disciplinary removals, and other exclusionary disciplinary measures” impede the child’s learning. *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Disciplinary Provisions*, 122 LRP 24161 (OSERS 07/19/22). A student’s need for behavioral interventions and support must be decided on an individual basis by the student’s IEP team. *Assistance to States for the Education of Children with Disabilities and Preschool Grants for*

*Children with Disabilities*, 71 Fed. Reg. 46540, 46691 (Aug. 14, 2006). The IDEA does not require districts to develop a BIP for all students with disruptive behavior; instead, it is enough for the IEP Team to outline any behavioral supports and strategies in the student's IEP. *Id.* at p. 46683.

Here, the Record shows that the District defaulted to existing strategies and supports when developing Student's October 2024 IEP, even though Student's behavior continued to escalate. In October 2024, Student's IEP Team met for his annual review. (FF # 30.) Though this review occurred in the midst of Student's escalating behavior, the resulting IEP looked nearly identical to Student's 2023 IEP. (FF #s 5-11, 31-37.)

From the outset of the school year, School staff recognized the change in Student's behavior. (FF #s 20, 24.) Student's conflict with Peer, as well as the chaos of the classroom, contributed to a significant increase in the intensity and frequency of Student's dysregulation. (FF #s 19-22.) School staff collaborated to push into the classroom to provide Student support. (FF # 24.) Even then, Student struggled with emotional regulation and work completion. (FF # 29.)

Yet, the 2024 IEP reflected neither the escalation in Student's behavior nor the consideration of additional strategies to decrease Student's dysregulation. (FF #s 31-37.) Other than allowing for modified assignments, Student's accommodations remained unchanged. (FF # 35.) The 2024 IEP continued to indicate that no BIP was warranted. (FF # 33.) Even more, the 2024 IEP did not include the additional adult support Student was being provided at the time (though that support was later included in the 2025 IEP). (FF #s 24, 36.)

The IEP Team added 120 minutes per week of specialized math instruction inside the general education classroom and increased Student's specialized writing instruction by 30 minutes per week. (FF # 36.) Student had not previously received any specialized math instruction. (*Id.*) Staff acknowledged that the addition of these services was due, in part, to Student's diminished math performance, as well as his need for extra adult support in the classroom. (*Id.*) Though Student already received direct writing instruction, he had not made progress on any of the objectives for his writing goal. (FF # 31.) On one objective, Student showed regression, and another could not be assessed due to Student's refusal. (*Id.*) It is unclear how an additional 30 minutes of weekly writing support would help Student break through his refusal and dysregulation.

Similarly, one of Student's social/emotional wellness goals targeted his ability to communicate his feelings and needs with words using an appropriate volume in the general education setting. (*Id.*) At the end of the one-year period, Student was unable to demonstrate that skill in any opportunities, far from his 80% target. (*Id.*) Despite this lack of progress, Student's social/emotional supports and services remained unchanged. (FF # 36.)

Student's annual review was the time for his IEP Team to collaborate and determine what Student really needed to be successful at School. Relying on existing strategies and supports was not the answer, especially after a quarter of the year had already passed without any improvement. For these reasons, the CDE finds and concludes that the 2024 IEP did not

adequately address Student's behavioral needs, as required by 34 C.F.R. § 300.324(a)(2)(i). This resulted in a denial of FAPE. *See D.S. v. Bayonne Bd. of Ed.*, 602 F.3d 553, 565 (3d. Cir. 2010) (finding that the content of an IEP relates to its substance, not to the IDEA's procedural requirements).

### C. Compensatory Services

Compensatory services are an equitable remedy intended to place a student in the same position he would have been if not for the 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 Ed.*, 118 LRP 43765 (SEA CO 6/22/18). 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 Philadelphia*, 612 F.3d 712, 717-18 (3d Cir. 2010).

From August 2024 through March 2025, Student did not receive adequate supports and services to meet his behavioral needs. This resulted in a marked increase in both the severity and frequency of Student's dysregulation. Student, in turn, was denied the benefit of much of his specialized instruction. Student's lack of growth on his i-Ready assessments evidences the impact of the District's noncompliance and Student's need for compensatory services. (FF #s 48-51.) To put Student in the position he would have been in, the CDE finds that it is necessary to provide him with the following compensatory services: 8 hours of direct specialized reading instruction, 13 hours of direct specialized math instruction, and 16 hours of direct specialized writing instruction. This award has taken into consideration the reading tutoring Student received at the District's expense over the summer.

**Conclusion to Allegation No. 2: The District was not required to review and revise Student's IEP to address his lack of expected progress under 34 C.F.R. § 300.324(b). The District complied with the IDEA.**

The second allegation in the Complaint concerns the District's obligation to review and, as appropriate, revise Student's IEP between August 2024 and March 2025 to address his lack of progress.

The IDEA requires school districts to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999 (2017). An IEP must include a statement of measurable annual goals, including academic and functional goals, designed to meet the child's needs that result from the child's disability and thereby enable the child to be involved in and make progress in the general education curriculum. 34 C.F.R. § 300.320(a)(2). Annual goals describe what a child with a disability can reasonably be expected to accomplish within a 12-month period in the child's special education program. *Letter to Butler*, 213 IDELR 118 (OSERS 1988).

The IDEA does not promise a particular educational or functional outcome for a student with a disability, but it does provide a process for reviewing an IEP to assess achievement and revising the program and services, as necessary, to address a lack of expected progress. *Andrew F.*, 137 S. Ct. at 998. To that end, school districts have an affirmative duty to review and revise a student’s IEP at least annually. 34 C.F.R. § 300.324(b). However, the IDEA contemplates that a student’s IEP may need to be reviewed and revised more frequently to address, in part, lack of expected progress toward the annual goals, a child’s anticipated needs, or other matters. See 34 C.F.R. §§ 300.324(a)(4)-(6), (b); *Andrew F.*, 137 S. Ct. at 994. The U.S. Department of Education confirmed that an “IEP Team also may meet periodically throughout the course of the school year, if circumstances warrant it.” *Questions and Answers on Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 71 IDELR 68 (EDU 12/7/17). This includes monitoring and revising an IEP as necessary, particularly if progress that is appropriate given a child’s circumstances does not occur, to ensure the goals remain individualized and appropriately ambitious for the child. *Id.*

Here, no more than five months elapsed between Student’s IEP Team meetings. The District completed Student’s annual review in October 2024, approximately two months into the school year. (FF # 30.) At that time, the IEP Team created new annual goals for Student. (FF # 34.) His IEP Team met again in March 2025, to review his IEP and develop his BIP. (FF # 43.) The Record shows Student made progress on his annual goals between October and March. (FF # 46.) Student worked on these goals for less than one-half of a school year and was not expected to have met his goals by March 2025. (FF # 34, 46.) For these reasons, the CDE finds and concludes that the District was not required to review and revise Student’s IEP to address his lack of expected progress under 34 C.F.R. § 300.324(b). The District complied with the IDEA.

**Conclusion to Allegation No. 3: The District implemented Student’s IEP, consistent with 34 C.F.R. § 300.323(c), between August 2024 and May 2025. The District complied with the IDEA.**

The final allegation in the Complaint relates to implementation of Student’s IEP between August 2024 and May 2025. Complainant alleged the District did not provide Student with the paraprofessional support required by his IEP.

Here, as detailed in the Findings of Fact, Student’s IEPs did not require that he receive support from a paraprofessional during his school day. (FF # s 5-11, 31-37.) Student benefitted from having a general education paraprofessional in his classroom from kindergarten through second grade. (FF # 14.) Student’s IEPs permitted his specialized instruction to be provided by a special education teacher or a paraprofessional under that teacher’s supervision. (FF #s 10, 36.) However, his IEPs did not specify that he would receive any other paraprofessional support—either general education or special education. (FF #s 5-11, 31-37.) For these reasons, the CDE finds and concludes that the District implemented Student’s IEP consistent with 34 C.F.R. § 300.323(c). The District complied with the IDEA.

**Systemic IDEA Noncompliance: This investigation does not demonstrate noncompliance that is systemic or likely to impact the future provision of services for all children with disabilities in the District if not corrected.**

Pursuant to its general supervisory authority, CDE must 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 SEA’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 Disability and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

Here, nothing in the Record suggests the District’s noncompliance is systemic or otherwise extends beyond Student. The trajectory of Student’s school year began with a poorly created class list and sent staff searching for ways to provide Student the support he needed. Though School staff worked diligently to support Student, the noncompliance still occurred.

### **REMEDIES**

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

1. Developing an IEP that was tailored to meet Student’s individualized needs during Fall 2024, as required by 34 C.F.R. § 300.324(a)(2)(i).

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

#### **1. Corrective Action Plan**

- a. By **Friday, October 3, 2025**, the 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 the 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 the District’s timely correction of the areas of noncompliance.

#### **2. Final Decision Review**

- a. Director, Assistant Director, Coordinator, Principal, Assistant Principal, and School’s special education teachers must each read this Decision in its entirety, as well as review the requirements of 34 C.F.R. § 300.324(a)(2)(i) by **Friday, October 17, 2025**. If these individuals are no longer employed by the 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 **Tuesday, October 21, 2025**.

#### **3. Compensatory Education Services**

- a. Student shall receive the following compensatory education:
  - i. 8 hours of direct specialized reading instruction from an appropriately licensed special education teacher selected by the District;
  - ii. 13 hours of direct specialized math instruction provided by an appropriately licensed special education teacher selected by the District; and
  - iii. 16 hours of direct specialized writing instruction provided by an appropriately licensed special education teacher selected by the District.
- b. A determination that the providers are appropriately licensed rests solely with the CDE.
- c. All compensatory services must be provided to Student no later than **June 30, 2026**. These services must be designed to advance Student toward his annual IEP goals. As such, these services must be provided to Student during the school day, inside the general education environment.
- d. By **Friday, September 26, 2025**, Complainant shall provide written consent for the provision of compensatory services to the CDE and the District. If Complainant does not provide written consent for services by this date, the District will be excused from providing compensatory services to Student. Unless otherwise specified by the District, this written consent shall be provided by Complainant to District Director. The District must then provide the written consent to CDE Special Education Monitoring and Technical Assistance Consultant.
- e. If written consent for the provision of compensatory services is received by September 26, 2025, the District shall submit the schedule of compensatory services to Complainant and the CDE by **Friday, October 24, 2025**.
  - i. Any delay in beginning the provision of compensatory services must be approved by the CDE.
  - ii. If the District and Parent cannot agree to a schedule by **Friday, October 24, 2025**, District and Complainant must meet either in-person or via video conference to resolve scheduling complications by **Friday, October 31, 2025** and submit the schedule by **Tuesday, November 4, 2025**.
  - iii. When determining the schedule, Complainant may opt out of some of the compensatory services. In that case, along with the schedule of services, the District shall submit evidence of Complainant's written request to opt out of a specific amount of compensatory services.

- iv. If the District and Complainant cannot agree to a schedule by **Tuesday, November 4, 2025**, the District must submit to the CDE all documentation evidencing diligent attempts to schedule the compensatory services in collaboration with Complainant, including but not limited to, copies of correspondence sent to Complainant and any responses received (such as e-mails), contact logs (such as records of telephone calls made or attempted and the results of those calls), and meeting notes, by **Friday, November 7, 2025**.
- v. By **Friday, November 21, 2025**, the CDE will, in its sole discretion, either determine the schedule for compensatory services or determine that the District is excused from providing the compensatory services.
- f. The parties shall cooperate in determining how compensatory services will be provided. If Complainant refuses to meet with the District within this time, the District will be excused from delivering compensatory services, provided that District diligently attempts to meet with Complainant and documents such efforts. A determination that District diligently attempted to meet with Complainant and should thus be excused from providing compensatory services to Students, rests solely with the CDE.
- g. Monthly consultation between the provider(s) delivering compensatory services and Student's case manager for the 2025-2026 school year shall occur to evaluate Student's progress towards IEP goals and adjust instruction accordingly. The purpose of this consultation is to help ensure that compensatory services are designed and delivered to promote progress on IEP goals. The District must submit documentation that these consultations have occurred **by the second Monday of each month**, once services begin, until all compensatory services have been furnished. Consultation logs must contain the name and title of the provider and the date, the duration, and a brief description of the consultation.
- h. To verify that Student has received the services required by this Decision, the District must submit records of service logs to the CDE by the **second Monday of each month** until all compensatory services have been furnished. The name and title of the provider, as well as the date, the duration, and a brief description of the service must be included in the service log.
- i. These compensatory services will be in addition to any services Student currently receives, or will receive, that are designed to advance Student toward IEP goals and objectives. The specialized instruction compensatory services must be provided to Student outside of the regular school day (such as before and/or after school, on weekends, or during school breaks) to ensure Student is not deprived of the instruction to which he is entitled (including time in general education).

- j. If for any reason, including illness, Student is not available for any scheduled compensatory services, District will be excused from providing the service scheduled for that session. If for any reason District fails to provide a scheduled compensatory session, District will not be excused from providing the scheduled service and must immediately schedule a make-up session and notify the Parent and CDE of the change in the appropriate service log.

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 the District does not meet the timelines set forth above, it may adversely affect the District's annual determination under the IDEA and subject the 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 SCO.

Dated this 5th day of September, 2025.



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Ashley E. Schubert  
Senior State Complaints Officer

## APPENDIX

### **Complaint, pages 1-13**

- Exhibit 1: Private Evaluation
- Exhibit 2: IEP
- Exhibit 3: Report Card
- Exhibit 4: Email
- Exhibit 5: i-Ready Results
- Exhibit 6: i-Ready Results
- Exhibit 7: Progress Report
- Exhibit 8: i-Ready Results
- Exhibit 9: i-Ready Results
- Exhibit 10: Email
- Exhibit 11: Suicide Risk Intervention
- Exhibit 12: Threat Assessment
- Exhibit 13: Safety Plan
- Exhibit 14: Report Card
- Exhibit 15: BIP
- Exhibit 16: i-Ready Results
- Exhibit 17: i-Ready Results
- Exhibit 18: IEP
- Exhibit 19: Email
- Exhibit 20: PWN
- Exhibit 21: Email
- Exhibit 22: Report Card
- Exhibit 23: Email

### **Response, pages 1-7**

- Exhibit A: IEPs
- Exhibit B: BIP
- Exhibit C: Service Logs
- Exhibit D: Behavior Records
- Exhibit E: FBA
- Exhibit F: Progress Monitoring Reports
- Exhibit G: Grade and Attendance Reports
- Exhibit H: Notices of Meeting
- Exhibit I: PWNs
- Exhibit J: District's Calendar
- Exhibit K: Relevant Policies and Procedures
- Exhibit L: Correspondence
- Exhibit M: Witness Information

- Exhibit N: Verification of Delivery

**Reply, pages 18**

- Exhibit 24: Email
- Exhibit 25: Email
- Exhibit 25: Email
- Exhibit 26: Email
- Exhibit 27: Email
- Exhibit 28: Email
- Exhibit 29: Email
- Exhibit 30: Email
- Exhibit 31: Email
- Exhibit 32: Email
- Exhibit 33: Email
- Exhibit 34: Email
- Exhibit 35: Email
- Exhibit 36: Email
- Exhibit 37: Email
- Exhibit 38: Email
- Exhibit 39: Email
- Exhibit 40: Email
- Exhibit 41: Email
- Exhibit 42: Email
- Exhibit 43: Email
- Exhibit 44: Email and iReady Results
- Exhibit 45: Email
- Exhibit 46: Notes
- Exhibit 47: Email
- Exhibit 48: Email
- Exhibit 49: Email
- Exhibit 50: Email and Progress Reports
- Exhibit 51: Email
- Exhibit 52: Email
- Exhibit 53: Email
- Exhibit 54: Private Evaluation
- Exhibit 55: Email
- Exhibit 56: Email
- Exhibit 57: Email
- Exhibit 58: Email
- Exhibit 59: Email
- Exhibit 60: Email
- Exhibit 61: Email

- Exhibit 62: Email
- Exhibit 63: Email
- Exhibit 64: Email
- Exhibit 65: Email and Notes
- Exhibit 66: Email
- Exhibit 67: Email
- Exhibit 68: Email
- Exhibit 69: Email
- Exhibit 70: Email
- Exhibit 71: Email
- Exhibit 72: Email
- Exhibit 73: Email
- Exhibit 74: Email
- Exhibit 75: Annotated IEP
- Exhibit 76: Progress Notes from Tutoring

**CDE Exhibit 1**: i-Ready Diagnostic Placement Tables

**Telephone Interviews**

- Assistant Director of Student Support Services: August 26, 2025
- Complainant: August 26, 2025
- Principal: August 25, 2025
- School Psychologist: August 22, 2025
- Special Education Coordinator: August 22, 2025
- Special Education Teacher: August 25, 2025
- Teacher: August 25, 2025