

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

**State Complaint SC2025-598
School District 49**

DECISION

INTRODUCTION

On July 29, 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 School District 49 (“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.

Prior to the CDE’s acceptance of the Complaint, on July 28, 2025, Parent filed a due process complaint concerning the same issues raised in the Complaint. As a result, the CDE placed the Complaint in abeyance (i.e., paused the Complaint) on August 1, 2025, pending the resolution of the due process complaint. 34 C.F.R. § 300.152(c)(1). On August 27, 2025, the Office of Administrative Courts notified the CDE that the due process complaint was dismissed without prejudice following Parent’s request to withdraw it. As a result, the CDE resumed the investigation into the Complaint.

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 29, 2024. Information prior to July 29, 2024, may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

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.

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. District did not develop an Individualized Education Program (“IEP”) that was tailored to meet Student’s individualized needs from February 2025 to present because it did not:
 - a. Include transportation as a related service to enable Student to advance appropriately toward attaining annual goals, and to be educated and participate with other children with disabilities and nondisabled children, as required by 34 C.F.R. §§ 300.34(c)(16), 300.320(a)(4); and
 - b. Review and, as appropriate, revise Student’s IEP in spring 2025, to address Student’s anticipated needs, as required by 34 C.F.R. § 300.324(b)(1).
2. District did not provide Parent with proper written notice of its proposed or refused actions regarding the provision of FAPE—specifically the decision not to hold an IEP team meeting or to provide special transportation—in spring 2025, as required by 34 C.F.R. § 300.503.
3. District did not properly determine Student’s placement and/or the location of Student’s services in spring 2025 because it did not ensure the placement decision was made by a group of persons that included Parent and did not consider the impact on his total education program, as required by 34 C.F.R. §§ 300.116, 300.327, and 300.501(c) and ECEA Rule 4.03(8).

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 eleven years old and is currently a 6th grader at his District neighborhood middle school (“Middle School”). *Complaint*, p. 2; *Response*, p. 1. During the 2024-2025 school year, Student attended his District neighborhood elementary school (“Elementary School”). *Response*, p. 1; *Exhibit A*, p. 1.
2. Student is eligible for special education and related services under the disability category of Autism Spectrum Disorder (“ASD”). *Response*, p. 1; *Exhibit A*, p. 1. Student excels with numbers and memory recall in areas of interest and enjoys swimming, camping, and

² The CDE’s state complaint investigation determines if District CDE 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.

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

airplanes. *Interviews with Parent, Student’s Spring 2025 special education case manager (“Case Manager 1”), and Student’s Fall 2025 special education case manager (“Case Manager 2”).* He struggles with changes in routine and emotional regulation. *Id.*; *Exhibit A*, pp. 24, 30.

3. This investigation centers around District’s decision to not provide Student with transportation to Parent’s school of choice (“SOC”)—a District middle school other than Middle School—during the 2025-2026 school year. *Complaint*, p. 9; *Response*, pp. 1-3. Specifically, Parent alleges District did not develop an IEP tailored to Student’s needs by not including transportation to SOC; did not review and revise the IEP to address anticipated transportation needs; did not provide Parent with proper written notice of its decision to not convene an IEP meeting; and did not properly determine Student’s placement at Middle School. *Complaint*, p. 9; *Reply*, pp. 1-3. District denies all allegations. *Response*, pp. 4-5, 8.

B. District’s Policies, Practices, and Procedures: Open Enrollment and Transportation

4. District has an open enrollment policy (“the Policy”) that allows students to apply for enrollment in a school outside of their attendance area (i.e. a District school other than the neighborhood school). *Exhibit H*, pp. 2-12. The Policy applies to all District students, whether special education or general education. *Interview with District’s Director of Special Education (“Director”) and District Special Education Coordinator (“Coordinator”).* Under the Policy, “[t]ransportation services shall become the responsibility of the [parents] who utilize the district’s open enrollment option” and must “be furnished by the parents/guardians unless space is available in district buses without disruption of regular routes.” *Exhibit H*, pp. 5, 9.
5. District also has a written procedure describing the requirements for special transportation for students with disabilities. *Id.* at pp. 14-15. The transportation needs of a student with disabilities must be considered at each IEP meeting, and if an IEP team determines a student requires special transportation, it must be provided in accordance with the IEP. *Id.*; *Interview with Director*. Generally, however, while students attending a school of choice “may qualify for special transportation . . . they cannot receive special transportation while attending a School of Choice.” *Exhibit H*, p. 15 (emphasis in original); *Interviews with Director and Coordinator*. There may be instances in which a child’s IEP cannot be implemented at the child’s neighborhood school, and the IEP team determines the child should be placed elsewhere—which may be a parent’s school of choice. *Interviews with Director and Coordinator*. In these circumstances, the child would continue to receive transportation to the school of choice, so long as the IEP Team has determined the school of choice is the appropriate placement for the child based on the IEP and the student’s individual needs. *Id.*

C. Selection of Student’s Middle School and Transportation Dispute

6. In Fall 2024 of Student’s fifth grade year, District informed all Elementary School families that, due to a District boundary realignment, all students who attend Elementary School would be zoned to attend Middle School, beginning with the 2025-2026 school year. *Exhibit I*, p. 16; see *Exhibit C*, p. 2; *Interviews with Director and Coordinator*. Previously, Elementary School

was zoned to feed into SOC for middle school, and District informed parents they would retain the option of enrolling students at SOC under the Policy. *Exhibit I*, p. 16; *Interview with Director*.

7. On January 17, 2025, District emailed all families again reiterating that Elementary School students will transition to Middle School, instead of SOC, beginning Fall 2025. *Exhibit I*, p. 10. The email also informed parents of the option to enroll students at SOC under the Policy and that transportation would not be provided to current fifth-grade students transitioning to sixth grade at SOC, except in limited cases of hardship. *Id.* at pp. 10, 14.
8. During this same time period, Parent began to plan for Student’s transition to middle school. *Interview with Parent*. Based on discussions with other parents, Parent determined that many of his peers would be applying to SOC and that it would be beneficial for Student—who has challenges bonding with peers—to follow his Elementary School peers and continue to foster those same relationships in middle school. *Id.*; *Reply*, p. 1. On February 28, Parent completed an open enrollment application to SOC. *Response*, p. 1; *Exhibit F*, pp. 4-6. Parent reports his “whole desire” in applying to SOC was to keep Student with the same peer group from Elementary School. *Interview with Parent*.
9. On February 28, Parent also emailed District staff, including Coordinator, inquiring about the effect of Student’s potential enrollment at SOC on transportation, as he was then receiving special transportation under his IEP. *Exhibit I*, p. 27; *Interview with Parent*. Specifically, Parent acknowledged his understanding that students who attend SOC as a school of choice under the Policy would not receive transportation to SOC, but requested further information on the impact on students whose IEPs require special transportation and whether this would constitute a “hardship” described in District’s January email (FF # 7). *Exhibit I*, p. 27. Parent was concerned with transportation because “the school bus is a core part of [Student’s] school experience and daily routine,” and the “structure, predictability, and sensory consistency of the bus ride help[s] him transition successfully into and out of the school environment.” *Reply*, p. 2; *Interview with Parent*.
10. Coordinator responded to Parent’s email the same day, noting that if Parent opted to “choice” Student out of his neighborhood school—Middle School—and into SOC, he would not be eligible for transportation services, citing District policy and procedure (FF #s 4-5). *Exhibit I*, p. 26; *Interview with Coordinator*. On March 1, Parent inquired about a hardship exception to the Policy given that Student’s disability caused him to be rigid in routines and, because Student had already expressed plans to attend SOC for middle school, Parent was reluctant to change those plans and cause Student distress. *Exhibit I*, p. 25. Coordinator reiterated that transportation services are “only provided to students attending their assigned neighborhood school, including special transportation services.” *Id.* at p. 21. Further, Coordinator noted District considers “hardship” cases related to students experiencing homelessness, but “this does not extend to challenges parents may face with self-transportation.” *Id.*; *Interview with Director*.

11. On March 11, Parent expressed to Coordinator that he was requesting an exception to the Policy due to the purported hardship on Student caused by the boundary change because of his disability—specifically, challenges with changes in routine and emotional regulation—and not due to Parent’s opinions of, or any differences in, the two schools. *Exhibit I*, p. 20. Coordinator confirmed the information she had already provided—that if Parent opted to pursue open enrollment at SOC, Student “will not be eligible for transportation services as a 6th grade student at [SOC] even though these are indicated on his IEP.” *Id.* at p. 18. However, Coordinator also reiterated that Student’s “current IEP, developed by the Team at [Elementary School], is designed to provide a [FAPE], and [Middle School] . . . is fully equipped to implement and support his IEP as written.” *Id.* at p. 32; *Interview with Coordinator*. Coordinator further confirmed that transportation would continue to be provided in accordance with the IEP to Middle School. *Id.* at p. 18; *Interview with Coordinator*.

D. April 2024 IEP Meeting

12. On April 14, 2025, a properly convened IEP Team, including Parent, met to conduct Student’s annual IEP review and discuss his transition to middle school. *Response*, pp. 1, 6; *Exhibit A*, pp. 22-23; *Interview with Parent*.

13. The IEP describes Student’s present levels of performance, including progress reporting on his prior annual IEP goals, results from recent assessments, and teacher observations. *Exhibit A*, pp. 24-29. The IEP indicates Student “has difficulty using verbal and non-verbal communication appropriately to initiate, engage in, and maintain social contact,” has trouble tolerating changes in routine, and tends to overreact to certain sensory experiences. *Id.* at p. 29. The IEP also indicates Student struggles with emotional regulation but has demonstrated significant progress in reducing verbal outbursts when provided with structured breaks and clear transitions using visual supports. *Id.* at p. 24.

14. The IEP describes Student’s needs and impact of his disability, noting he requires direct specialized instruction to address his challenges in communication, social skills, and academics. *Id.* at p. 30. The IEP also notes Student requires constant adult supervision and safety monitoring due to his ASD and challenges with sensory processing skills. *Id.*

15. The IEP indicates Student exhibits behavior that requires a Behavior Intervention Plan (“BIP”), and a BIP is included with the IEP. *Id.* at pp. 30, 42-46.

16. The IEP also indicates Student requires special transportation. *Id.* at p. 30. The IEP Team determined he continued to qualify for transportation and generally discussed his transition to middle school in terms of challenges and supports but did not specifically discuss—nor did Parent raise—any concerns with the Policy or transportation to SOC. *Interviews with Case Manager 1 and Parent*. Instead, Parent expressed that Student would be attending Middle School at the time of the meeting, though the Team was aware of Parent’s ongoing discussions with outside District staff regarding his concern around transportation to SOC. *Id.*; *Exhibit A*, p. 30. Thus, the IEP Team considered Parent’s desire for Student to attend SOC to

be a “school-of-choice matter, not . . . an IEP matter.” *Response*, p. 9; *Interviews with Director, Coordinator, and Case Manager 1*.

17. The IEP includes ten annual goals in speech-language, math calculation, basic reading skills, reading comprehension, written expression, and behavior/emotional regulation. *Exhibit A*, pp. 30-35.
18. The IEP includes numerous accommodations to ensure Student’s access to the general education curriculum, including sensory supports for emotional regulation. *Id.* at pp. 35-36.
19. The IEP includes the following special education and related services: 750 minutes per week of direct academic special education services; 60 minutes per week of speech-language services; 130 minutes per month of mental health services; and 20 minutes per month of occupational therapy. *Id.* at pp. 38-39.
20. The IEP Team determined it was appropriate for Student to be in general education 40%-79% of the time. *Id.* at p. 40. The Team determined that placement was appropriate to provide a high level of continuous adult support while ensuring access to general education peers. *Id.* The IEP Team did not change Student’s placement at the April meeting or consider implementing the IEP at SOC because the two schools are programmatic equivalents, and the Team would only consider placement outside Student’s neighborhood school if it was unable to provide the programming Student required. *Interviews with Director and Case Manager 1*.
21. Parent does not raise concerns with the procedures of the IEP Team meeting on April 14 or the substantive services and supports in the IEP developed at that time. *Response*, p. 2; *Reply*, p. 2; *Interview with Parent*. Parent also does not dispute that Middle School can provide the services required under Student’s IEP and concedes that the IEP “could technically be implemented” at Middle School. *Complaint*, p. 9; *Reply*, p. 2; *Interview with Parent*.

E. Parent’s Request for Additional IEP Meeting

22. Following the IEP meeting, Parent requested an exception to the Policy via District’s Transportation Department. *Exhibit I*, p. 206; *Interview with Parent*. On May 22, 2025, District’s Transportation Director denied Parent’s request for an exception on policy grounds and noted District was not “removing access to busing for [Student]. We are providing transportation to the school [Student] would attend according to [Parent’s] address and the school boundary.” *Exhibit I*, p. 50.
23. Dissatisfied with District’s responses, on May 27, Parent requested to convene another IEP Team meeting “to determine whether transportation to [SOC] is necessary to provide the least restrictive environment.” *Id.* at p. 73. Parent felt as though he did not receive a clear answer in his communications with other District staff regarding his transportation concern until receiving a “firm no” in May, and that the IEP Team should have then met to reconsider Student’s individualized needs. *Interview with Parent*.

24. On May 28, Director emailed Parent and issued prior written notice (“PWN”) of District’s decision to not convene another IEP Team meeting, change Student’s placement or provision of FAPE, and provide transportation to SOC. *Exhibit C*, pp. 1-2; *see Exhibit I*, p. 167; *Interview with Director*. The PWN described District’s actions and the reasons for them, the data used as the basis for its refusal, a statement of Parent’s procedural safeguards rights and how to obtain a copy of them, and other options and factors the IEP Team considered. *Exhibit C*, pp. 1-2.
25. Specifically, the PWN noted Parent had requested an IEP meeting “be convened to consider an accommodation of special transportation to [SOC]” and that District was declining to hold an IEP meeting “because there is no special education programming available at [SOC] that Student cannot access at [Middle School]”; Student’s IEP could be fully implemented at Middle School; and “there was no new educational need for [Student] to be placed at [SOC] over his neighborhood middle school.” *Exhibit C*, p. 2; *Response*, p. 7.
26. The PWN explained the reasons for District’s refusal to provide special transportation to SOC, given Parent’s concerns around Student’s disability-related needs. *Exhibit C*, pp. 1-2. It acknowledged his presentation of ASD includes a need for consistency but asserted moving to middle school would be a change regardless of which school he attended. *Id.* at p. 1. In any event, District was not removing access to busing, so his routine need not change, and the IEP “contains services and supports to help [him] manage the challenge of facing changes in his school environment” regardless of where he enrolled. *Id.* Further, the PWN acknowledged that “changes in a peer group can be challenging for all students, and especially so for those with ASD” but explained “District’s offer of FAPE . . . does not hinge on the presence of any particular peers, as this is something over which the District does not have control.” *Id.* at p. 2.
27. Director explained that the placement decision is an IEP team decision, and an IEP team would not make or reconsider a placement determination based on the location of attendance of a student’s peers—unless specifically required by a student’s IEP—because there would be no guarantee the student would have classes with preferred peers and those preferred peers could change schools or friend groups, among other obstacles over which District has no control. *Interview with Director*.
28. Parent asserts that District should have reconvened the IEP Team after his request in May and that the PWN was insufficient because it did not include his involvement or input. *Interview with Parent*. Further, Parent contends that District’s refusal to provide transportation to SOC was not based on an individualized determination through the IEP Team, but rather on a blanket policy. *Reply*, p. 2.
29. On July 23, Parent withdrew his application to SOC. *Exhibit F*, p. 7; *Interviews with Director and Parent*. Ultimately, Parent determined that keeping continuity in Student’s bus routine took priority over remaining with his preferred peer group for middle school. *Interview with Parent*; *see Reply*, p. 2.

30. District acknowledges that, had Parent chosen to enroll Student at SOC, an IEP meeting would have been held at SOC to clarify in the IEP that transportation would not be provided due to Student’s attendance at SOC, though he remained eligible for transportation. *Response*, p. 9. However, because Parent withdrew his SOC application, and Student attended Middle School as anticipated, no IEP meeting was required. *Interviews with Director and Coordinator*.

F. Current School Year

31. Student began sixth grade at Middle School on August 1, 2025. *Response*, p. 1; *Exhibit G*, p. 1. Parent and Case Manager 2 report that Student’s transition to Middle School has been typical of most sixth-grade students—after some initial challenges, Student has settled into school, made progress in emotional regulation and interacting with new peers, and continues to enjoy bus rides. *Interviews with Parent and Case Manager 2*.

32. Student receives all the special education and related services specified in his IEP, including transportation services. *Response*, p. 1; *Interviews with Director, Case Manager 2, and Parent*.

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 from February 2025 to present, as required by 34 C.F.R. §§ 300.34(c)(16), 300.320(a)(4). District reviewed and revised, as appropriate, Student’s IEP at least annually, as required by 34 C.F.R. § 300.324(b)(1). District was not required to convene an IEP meeting to review and revise, as appropriate, Student’s IEP thereafter in Spring 2025 to address anticipated needs with transportation, consistent with 34 C.F.R. § 300.324(b)(1). District complied with IDEA.

Parent’s concern is that District did not provide Student transportation to SOC and did not review and revise Student’s IEP to include transportation to SOC. (FF #s 3, 23, 28).

A. The IEP

i. Legal Standard for IEP Development

The IEP is “the centerpiece of the [IDEA’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 Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 391 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Educ. v. Rowley*, 458 U.S. 176, 181 (1982)). 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. *Id.* at 399.

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 question under each prong 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.

ii. Development of the IEP

Parent did not raise concerns regarding the IEP development process under the first prong (FF # 21), so the CDE turns directly to consider the second prong of whether the IEP was substantively adequate. *Rowley*, 458 U.S. at 207.

iii. Substantive Adequacy of the IEP – Transportation

An IEP must be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Andrew F.*, 580 U.S. at 599. To that end, an IEP must identify the special education and related services that will be provided to allow the child to (1) attain the annual goals, (2) be involved and make progress in the general curriculum, and (3) participate in nonacademic activities. 34 C.F.R. § 300.320(a)(4). "Related services" under IDEA "means transportation and other developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education." *Id.* § 300.34(a). Related services must be included in a student's IEP when they are necessary for the student to benefit from special education. *See In re Student with a Disability*, 65 IDELR 160 (SEA ID 03/16/15).

Transportation is a related service that an IEP must include, where appropriate, to assist a child with a disability to benefit from special education. 34 C.F.R. §§ 300.34(a), (c)(16). As a related service, transportation may include: (a) travel to and from school and between schools; (b) travel in and around school buildings; and (c) specialized equipment required to provide special transportation for a child with a disability. *Id.* § 300.34(c)(16). A child's IEP team determines whether the child requires transportation to receive a FAPE. *Assistance to States for the Education of Children with Disabilities*, 71 Fed. Reg. 46576 (Aug. 14, 2006).

Here, Student's IEP Team determined that he continued to require special transportation at the IEP annual review in April 2025, the IEP provided for special transportation both before and after the meeting, and Student received transportation to school for the entirety of the 2024-2025 school year. (FF #s 9, 16). Indeed, Student continues to receive transportation to Middle School in accordance with his IEP. (FF # 32). Parent does not allege, and the Record does not reflect, that District removed transportation from the IEP at any point. (FF #s 16, 32). For these reasons, the CDE finds and concludes that District included transportation as a related service in the IEP to enable Student to assist a child with a disability to benefit from special education, and to be educated and participate with other children with disabilities and nondisabled children, as required by 34 C.F.R. §§ 300.34(a), (c)(16) and 300.320(a)(4).

B. Annual IEP Review and Ongoing Review and Revision

i. Legal Requirements

The IDEA requires school districts to offer an IEP reasonably calculated to enable a child to make progress in light of the child’s circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). The IDEA does not promise a particular educational or functional outcome for a student with a disability, but it does provide a process for reviewing an IEP to assess achievement and revising the program and services, as necessary, to address a lack of expected progress or changed needs. *Id.* at 400. To that end, school districts have an affirmative duty to review and revise a student’s IEP at least annually. 34 C.F.R. § 300.324(b). However, the IDEA’s procedures contemplate that a student’s IEP may need to be reviewed and revised more frequently to address any lack of expected progress toward the annual goals, the results of any reevaluation, “[i]nformation about the child provided to, or by, the parents,” “[t]he child’s anticipated needs,” or other matters. *Id.*; see *Endrew F.*, 580 U.S. at 400.

ii. Annual Review of the IEP

Here, a properly convened IEP Team, including Parent, met for Student’s annual review on April 14, 2025. (FF # 12). The Team discussed Student’s needs in transitioning to middle school and reviewed and revised the IEP to include services, supports, and accommodations to meet those needs. (FF #s 12-20). Parent’s sole concern in the Complaint regarding Student’s IEP is around transportation—however, Student’s transportation services were not removed or revised at the April IEP meeting, Parent did not raise any transportation-related concerns at that time, and he does not otherwise raise any concerns with the IEP annual review. (FF #s 16, 21). Therefore, the CDE finds and concludes that District reviewed and revised, as appropriate, Student’s IEP at least annually, as required by 34 C.F.R. § 300.324(b)(1).

iii. Ongoing Obligation to Review and Revise IEP

Although Parent does not raise concerns with the IEP annual review, he asserts the IEP Team should have reconvened after his request on May 27, 2025, to further consider Student’s individualized transportation needs and review and revise the IEP accordingly. (FF #s 21, 23, 28). The IEP Team had met to review Student’s IEP only one month prior and considered Student’s anticipated needs transitioning to middle school, and the IEP included services and supports to assist with Student’s transition to a new learning environment, regardless of which school he enrolled in. (FF #s 12-20, 26). Further, the Record does not indicate Student had any changed needs in the interim warranting another IEP meeting. (FF #s 22-28).

Parent’s primary objective in requesting another IEP Team meeting was to revise Student’s IEP to require transportation to SOC. (FF #s 8, 23, 28). However, where a student with a disability chooses—based on personal preference and not on a disability-related educational need—to attend another school in the district other than his neighborhood school, the district is not obligated to provide transportation to that school. *Fick ex rel. Fick v. Sioux Falls Sch. Dist. 49-5*,

337 F.3d 968, 970 (8th Cir. 2003); *El Paso Cnty. Sch. Dist. No. 11*, 120 LRP 8085 (SEA CO 12/23/19). If the disability-related educational needs of a child can be met by a neighborhood school, and the parents or child select a school outside the neighborhood school “for reasons of personal preference,” then a school district may refuse to provide special transportation. *Fick*, 334 F.3d at 970. “[A] school district may apply a facially neutral transportation policy to a disabled child without violating the law when the request for a deviation from the policy is not based on the child’s educational needs, but on the parent’s convenience or preference.” *Id.*

Here, Parent applied to SOC via open enrollment because many of Student’s peers were also attending SOC for middle school, and he wanted to preserve continuity in those peer relationships and avoid causing Student emotional distress. (FF # 8). While the CDE understands Parent’s desire to keep Student with peers he is familiar with, “nothing in the IDEA or Student’s IEP requires such continuity.” *Boulder Valley Sch. Dist. RE-2*, 123 LRP 24955 (SEA CO 08/11/23) (finding district was not required to provide student transportation to parent’s school of choice, which parent preferred due to student’s peer group). A FAPE requires that Student’s educational programming be “reasonably calculated to enable a child to make progress in light of the child’s circumstances.” *Andrew F.*, 580 U.S. at 399.

The special education programming at Middle School and SOC are the same, and Middle School can implement Student’s IEP with fidelity. (FF #s 11, 21, 25). Indeed, Student is currently receiving all special education and related services under his IEP at Middle School, including transportation. (FF # 32). Thus, the CDE finds that Parent preferred SOC due to personal preference around Student’s peer group. District’s facially neutral policy, which applies to all students regardless of disability status, is to not provide transportation to students who, through the open enrollment process, enroll somewhere other than their neighborhood school. (FF #s 4-5). Consistent with the Policy, District decided to not transport Student to SOC for the 2025-2026 school year. (FF #s 24-26). District was not required to provide Student with special transportation to SOC. *See Fick*, 334 F.3d at 970; *El Paso Cnty. Sch. Dist. No. 11*, 120 LRP 8085 (SEA CO 12/23/19).

For these reasons, the CDE finds and concludes that District was not required to convene the IEP Team to review and revise, as appropriate, the IEP in Spring 2025 to address Student’s anticipated needs with respect to transportation, consistent with consistent with 34 C.F.R. § 300.324(b)(1). District complied with IDEA.

Conclusion to Allegation No. 2: District provided Parent with proper prior written notice of its refused actions regarding the provision of FAPE in Spring 2025, as required by 34 C.F.R. § 300.503. District complied with IDEA.

Parent’s concern is that District did not provide proper notice of its decision not to hold another IEP Team meeting, as Parent requested, and provide transportation to SOC. (FF #s 3, 23, 28).

PWN must be issued a reasonable time before a district proposes or refuses to change “the educational placement of the child or the provision of FAPE to the child.” 34 C.F.R. § 300.503(a).

PWN must include: (1) a description of the action proposed or refused by the district; (2) an explanation of why the district proposes or refuses to take the action; (3) a description of each evaluation procedure, assessment, record, or report used by the district as a basis for the action; (4) a statement that the parents of a child with a disability have protections under the procedural safeguards, and the means by which a copy of a description of the procedural safeguards can be obtained; (5) sources for parents to contact to obtain assistance in understanding the information; (6) a description of other options the IEP team considered and the reasons why those options were rejected; and (7) a description of any other factors relevant to the district's proposal or refusal. *Id.* § 300.503(b)(1)-(7).

Adequately identifying and explaining the specific action being proposed or refused is essential because the primary purpose of PWN is to help parents understand the basis for disagreement and whether to seek resolution of the dispute through the available procedural safeguards. See *Letter to Boswell*, 49 IDELR 196 (OSEP 2007); *Douglas Cnty. Sch. Dist.*, 118 LRP 35788 (SEA CO 07/06/18).

As an initial matter, Parent disagrees with District's decision to deny his May 27, 2025, request for an IEP meeting. (FF #s 23-28). The IDEA requires school districts to be responsive to a child's needs through the course of the school year, which may mean the IEP team has to convene outside of the annual review if circumstances warrant it, such as if a student is not making progress on annual IEP goals or has changed needs. *Questions and Answers on Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 71 IDELR 68 (EDU 2017). The parents of a child with a disability "have the right to request an IEP meeting at any time," although school districts "are responsible for determining when it is necessary to conduct an IEP Team meeting." *Id.* However, the IDEA does not require districts to schedule an IEP meeting upon parental request and Colorado law does not add such a requirement. *Adams Cnty. Sch. Dist. 50*, 109 LRP 23970 (SEA CO 06/01/08) (noting "that while the IDEA does not require school districts to convene an IEP meeting pursuant to parental request, state law may include it as a requirement; however, Colorado has not").

Here, District considered Parent's request and declined to convene another IEP Team meeting because Student's annual IEP review had been conducted only one month prior, and there was no new indication of any changed needs of Student's that would warrant another meeting. (FF #s 24-26). The law does not require an IEP meeting to be convened upon a parental request, and the Record does not indicate that District was required to do so in these circumstances. See *Questions and Answers on Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 71 IDELR 68 (EDU 2017).

Instead, District provided Parent PWN of its decision not to convene another IEP Team meeting and not to provide transportation to SOC on May 28, 2025, one day after Parent's request on May 27. (FF #s 23-24). The PWN thoroughly explains the reasons for District's action and contains sufficient information to help Parent understand the basis for District's decision. (FF #s 24-26). The PWN also describes the data used as the basis for District's action, a statement of Parent's procedural safeguards and how to obtain a copy of them, other options the IEP Team considered, and any other factors considered by the Team. (FF # 24). Parent asserts the PWN was insufficient because he was not included in developing it. (FF # 28). However, the IDEA does not include

requirements relating to PWN development and parent participation therein; in any event, the PWN describes Parent’s input from the April IEP meeting and other discussions with District staff regarding his transportation concerns. (FF #s 9-11, 16, 24-26). For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.503.

Conclusion to Allegation No. 3: District properly determined Student’s placement and the location of Student’s services in Spring 2025, as required by 34 C.F.R. §§ 300.116, 300.327 and 300.501(c) and ECEA Rule 4.03(8). District complied with IDEA and the ECEA Rules.

Parent’s concern is that District did not properly determine Student’s placement by refusing to reconvene the IEP Team to consider whether placement at SOC was appropriate. (FF #s 3, 23).

The IDEA details how a student’s educational placement must be determined but does not define what constitutes an “educational placement.” 34 C.F.R. § 300.116. Colorado law defines the terms “placement” and “educational placement” to “mean to the provision of special education and related services,” and federal courts have held that educational placement encompasses a student’s educational program, as well as the environment in which the students receives that program. ECEA Rule 4.03(8)(a); *see, e.g., A.W. ex rel. Wilson v. Fairfax Cnty. Sch. Bd.*, 372 F.3d 674, 682 (4th Cir. 2004) (finding “educational placement” means “the environment in which educational services are provided”); *White ex rel. White v. Ascension Parish Sch. Bd.*, 343 F.3d 373, 379 (5th Cir. 2003) (concluding that “educational placement” refers to a student’s “educational program—not the particular institution where the program is implemented”). Placement does not refer to a specific location, “such as a specific classroom or specific school.” ECEA Rule 4.03(8)(a); *see also D.K. v. Dist. of Columbia*, F. Supp. 2d 138 (D.D.C. 2013); *White*, 343 F.3d at 682.

A student’s placement must be determined by the IEP Team, including parents, and must be individualized. 34 C.F.R. §§ 300.116(a)(1), 300.327; ECEA Rule 4.03(8)(a). Placement must be determined annually, be based on the child’s IEP and be as close as possible to the child’s home. 34 C.F.R. § 300.116(b). Although the IDEA creates a preference for educating students in their neighborhood school, students may need to be placed elsewhere if the neighborhood school is not properly suited to meet their educational needs. *H.D. v. Cent. Bucks Sch. Dist.*, 59 IDELR 275 (E.D. Pa. 2012).

Here, the IEP Team, including Parent, determined Student’s placement at the April 2025 annual review and that Student’s IEP would be implemented at Middle School. (FF #s 16, 20). Parent did not dispute District’s offer of FAPE at the April IEP meeting, or the placement determination specifically, and does not suggest that District changed Student’s placement at any point. (FF #s 20-21). Indeed, both Middle School and SOC have the same programming and can implement Student’s IEP, which Parent concedes. (FF #s 11, 20-21). The IEP Team did not have reason to consider Student’s placement anywhere other than his neighborhood school at the IEP annual review and—absent other changed circumstances, none of which are indicated by the Record here—Parent’s preference for Student to remain with his peer group at SOC was not a sufficient reason for the IEP Team to meet to reconsider placement after the April meeting. (FF #s 8, 20-

21, 25-28). Parent only wished to change the *location* of Student's services due to his preference around keeping Student with his then-current peer group. (FF #s 8-11). Colorado law and federal guidance require parent participation in discussions about a change in location of a student's services. ECEA Rule 4.03(8)(b)(iii); *see Letter to Breeskin*, 75 IDELR 256 (OSEP 2019). Here, however, Parent does not suggest, and the Record does not reflect, that District changed the location of Student's services. (FF #s 16, 20-21).

For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. §§ 300.116(a)(1), 300.327, and 300.501(c) and ECEA Rule 4.03(8).

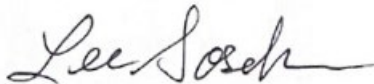
REMEDIES

The CDE concludes District has complied with IDEA. Accordingly, no remedies are ordered.

CONCLUSION

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

Dated this 24th day of October, 2025.



Lee Sosebee, Esq.
State Complaints Officer

APPENDIX

Complaint, pages 1-9

Response, pages 1-11

- Exhibit A: IEPs
- Exhibit B: Evaluation Data
- Exhibit C: PWNs
- Exhibit D: Documentation from IEP Meetings
- Exhibit E: Progress Reporting
- Exhibit F: Enrollment Documentation
- Exhibit G: District Calendars
- Exhibit H: Policies and Procedures
- Exhibit I: Correspondence
- Exhibit J: District Staff Contacts
- Exhibit K: Verification of Delivery

Reply, pages 1-4

- Exhibit 1: Email Correspondence

Telephone Interviews

- Director: September 23, 2025
- Coordinator: September 23, 2025
- Case Manager 1: September 23, 2025
- Case Manager 2: September 23, 2025
- Parent: September 25, 2025