

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

State-Level Complaint 2021:533
[School District]

DECISION

INTRODUCTION

On December 2, 2021, the (“Parents”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”) filed a state-level complaint (“Complaint”) against [School District] (“District”).¹ The State Complaints Officer (“SCO”) determined that the Complaint identified three (3) allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153. Therefore, the SCO has jurisdiction to resolve the Complaint.

RELEVANT TIME PERIOD

Pursuant to 34 C.F.R. §300.153(c), CDE has the authority to investigate alleged violations that occurred not more than one year from the date the original complaint was filed. Accordingly, this investigation will be limited to the period of time from December 2, 2020, through December 2, 2021, for the purpose of determining if a violation of the IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations. Findings of noncompliance, if any, shall be limited to one year prior to the date of the complaint.

SUMMARY OF COMPLAINT ALLEGATIONS

Whether District denied Student a Free Appropriate Public Education (“FAPE”) because District:

1. Failed to hold an annual review meeting, on or by April 14, 2021, to review and, as appropriate, revise Student’s IEP, in violation of 34 C.F.R. § 300.324(b).

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

2. Failed to reevaluate Student to address a significant escalation in Student’s behavior, after Parent’s request on or about September 7, 2021, in violation of 34 C.F.R. §§ 300.303 and 300.503.
3. Failed to properly implement Student’s IEP from September 13, 2021 to present, specifically as follows:
 - a. Failed to provide the special education and related services required by Student’s IEP, to specifically include accommodations and modifications, in violation of 34 C.F.R. §§ 300.34, 300.320(a)(4), and 300.323;
 - b. Failed to educate Student in the Least Restrictive Environment (“LRE”) as required by Student’s IEP, by removing Student from the general education environment due to staffing issues, in violation of 34 C.F.R. §§ 300.34, 300.114, 300.320(a)(5), and 300.323.

FINDINGS OF FACT

After thorough and careful analysis of the entire record,² the SCO makes the following FINDINGS:

A. Background

1. Student is a warm and sweet child, with a love of reading and music. *Interviews with Parents, Special Education Teacher, Director of Special Education, and Speech Language Pathologist (“SLP”); Exhibit A, pp. 33, 36.* Due to cognitive, motor, and language delays, Student has difficulty processing information, and she requires support for communication and behavior. *Interviews with Parents; Exhibit A, p. 38.*
2. Student has a complex medical history, to include diagnoses of cognitive delays, attention deficit hyperactivity disorder, celiac disease (Student needs to be careful about what she eats and touches), psoriasis (controlled through medication, but Student must be monitored for excessive itching), hypothyroidism, autism, down syndrome, sleep disturbances, sensory issues, hot and cold intolerance, and autoimmune hepatitis. *Exhibit A, p. 40; Exhibit I, p. 9; Interviews with Parents and Special Education Teacher.*
3. Student’s family moved into District from another state in the summer of 2020, at which time Student enrolled in 8th grade at a District middle school. *Interviews with Parents and Director of Special Education; Exhibit A, p. 1.* Student entered Colorado with an out-of-state IEP, and on September 9, 2020, District developed a new IEP for Student (“2020 IEP”). *Interviews with Parents and Director of Special Education; see Exhibit A, pp. 1-30.*

² The appendix, attached and incorporated by reference, details the entire record.

4. The 2020 IEP was in effect from September 9, 2020 through April 13, 2021. *Exhibit A*, pp. 1, 31. Student qualified for special education and related services under the Intellectual Disability category. *Id.* at p. 1. In February of 2021, District proposed to reevaluate Student for continuing eligibility and to develop a new IEP. *See Exhibit C*, pp. 1-2

B. The 2021 Triennial Reevaluation

5. District provided prior written notice and consent to Parents on February 9, 2021, and Parents consented to the reevaluation on February 27, 2021. *See Id.* The consent form indicated the reevaluation would be conducted in the areas of Academics, Social/Emotional, Cognitive, Motor, and Speech/Language. *Id.* at p. 1.
6. The reevaluation took place on March 29 and 30, 2021. *Exhibit I*, pp. 1, 3. Student's Full Scale Intelligence Quotient score was in the "Extremely Low" range when compared to other peers her age. *Id.* Student also demonstrated a limited ability to access and apply acquired word knowledge and express herself using words when compared to same aged peers. *Id.* Her ability to evaluate visual details and understand visual spatial relationships was significantly lower than her peers, but she showed a relative strength in fluid reasoning. *Id.* at p. 4.
7. To assess Student's behavior, District administered the Adaptive Behavior Assessment System and collected behavior data during an observation. *Exhibit I*, pp. 3-4, 11-16. Student's adaptive behavior was found to be in the "Extremely Low" range across settings, suggesting delays in adaptive functioning. *Id.* at p. 6, 28.
8. To assess articulation skills, District administered the Goldman-Fristoe Test of Articulation – Third Edition ("GFTA-3"). Student has a high palatal arch, and her jaw, tongue, and lip movement have reduced fluidity of movement. *Id.* Student's GFTA-3 score demonstrated that her speech impairment affects her speech sound production and impacts her ability to communicate orally in conversations and answer questions in the educational environment. *Id.* Her receptive language skills were likewise well below age expectations. *Id.* at pp. 6-7.
9. On March 31, 2021, a properly constituted multi-disciplinary team ("MDT") met to discuss the results of the reevaluation, review the 2020 IEP, and develop a new IEP for Student ("2021 IEP"). *Interviews with Parents and Director of Special Education; Exhibit A*, p. 31; *Exhibit D*, p. 2; *see Exhibit H*, p. 6. The MDT determined Student continued to qualify for special education and related services but changed her disability category from Intellectual Disability to Multiple Disabilities. *See Exhibit A*, p. 31. A properly constituted IEP Team then reviewed the 2020 IEP and the reevaluation data to develop the 2021 IEP. *See id.* at pp. 31-57; *Interviews with Parents and Director of Special Education*.

C. The 2021 IEP

10. The 2021 IEP documents Student's strengths, preferences, and interests, including that she enjoys sports, has a great sense of humor, and comes from a loving and supportive family. *Exhibit A*, p. 33.
11. The 2021 IEP reviews Student's present levels of academic achievement and functional performance, documenting reevaluation and state assessment results, and observations from each of her teachers. *Id.* at pp. 34-38. Student's speech is hard to understand, so she uses an iPad app called Proloquo2Go, which is a symbol supported Augmentative and Alternative Communication ("AAC") app for people who cannot speak or need help being understood. *Id.* at p. 34.
12. In the Needs and Impact of Disability section, the 2021 IEP reports that, due to cognitive, motor, and language delays, Student has difficulty progressing at the same rate as typical peers within the general education curriculum. *Id.* at p. 38. Student requires 1:1 support from a paraprofessional to interpret a new skill and link it with her knowledge in a meaningful way. *Id.* Student also requires extra adult assistance to help her with academic transition and safety needs across school settings. *Id.*
13. Student's delays in overall communication impact her ability to make her needs and wants known efficiently and effectively. *Id.* She exhibits many speech-sound errors which make it difficult for an unfamiliar listener (i.e., someone without knowledge of context) to understand what she is saying, but she is beginning to use the AAC app on her iPad ("Talker") to improve the clarity of her messages. *Id.*
14. The 2021 IEP documents Parents' input, including that Parents asked to have a meeting scheduled before the start of classes in August to review Student's schedule, tour School, and meet with the paraprofessionals and teachers who would be working with Student (since Student would be starting high school for the first time). *Exhibit A*, p. 39; *Interview with Parents*. Parents report Student is a runner and needs an adult to walk her to the car or bus, and they asked that they stay informed of what Student is doing in school. *Exhibit A*, p. 39. Parents also requested that the paraprofessional, speech pathologist, and speech pathology assistant working with Student be trained on working with the Talker. *Id.*
15. The 2021 IEP indicates Student's annual goals were adopted from the 2020 IEP because they were not yet met, but the objectives under each annual goal were updated to reflect her progress. *See id.* at p. 57; *Interviews with Director of Special Education and Parents*. The nine annual goals for Student cover communication, vocabulary, math, behavior, spelling, reading comprehension, and writing. *Exhibit A*, pp. 42-51. Relevant to this investigation are:

- a. Goal # 1 (Communication): “By the next annual review, [Student] will improve functional communication skills by meeting 3 of the 5 short term objectives[:]
- i. Given picture prompts and verbal models, [Student] will correctly produce multisyllabic words (common nouns, verbs and adjectives) from a baseline of 30% to 70% of the trials over 3 consecutive data collection sessions.
 - ii. Given written and verbal models, [Student] will correctly produce functional 3 to 5 word phrases either verbally or with her [Talker] from a baseline of 20% to 50% of the trials over 3 consecutive data collection sessions.
 - iii. [Student] will correctly produce initial /l/ and initial /f/ at the word level from a baseline of 50% to 80% of the trials with minimal cues over 3 consecutive data collection sessions.
 - iv. Following direct instruction using [the Talker], [Student] will demonstrate the ability to use the following words/concepts in functional phrases (don’t, can, let’s, make, feel, good, bad, where, come, etc.) in 60% of the trials over three data collection sessions.
 - v. [Student] will take 3 conversational turns with communication partners consisting of greetings and commenting either verbally and/or with [the Talker] in at least 50% of structured opportunities without prompts. She will demonstrate communication behavior of eye contact, volume, and proximity.”

Id. at pp. 42-43.

- b. Goal # 4 (To increase transitional skills): “By March 2022 [Student] will independently transition between classes around the school campus by walking to class, carrying her necessary materials, informing para/teacher if she needs a break or needs to use the bathroom, using the starts, etc. with an average of 75% success over a 3 week period.
- i. [Student] will transition between classes under adult supervision without engaging in negative behaviors.
 - ii. [Student] will transition between classes independently within eye shot of an adult without engaging in negative behaviors.”

Id. at pp. 46-47.

16. The 2021 IEP contains accommodations designed to help Student access the general education curriculum. *Id.* at p. 52. These include “[p]referential seating including alternate location in room, near instruction/next to peers”, “[a]llow talking device as an answering

tool”, and “[h]ome/[s]chool daily communication log.” *Id.* The accommodations are general across academic subjects. *See id.*

17. The 2021 IEP contains modifications, including that class materials be adapted for a modified curriculum (i.e., visual presentation of all vocabulary), Student be allowed to use her phone for a calculator (only with adult supervision), and Student be monitored continuously for safety. *Id.*
18. The Service Delivery section provides for 120 minutes per week of direct speech services, and 1,900 minutes per week of 1:1 paraprofessional support (1:1 support in all settings throughout the day). *Id.* at p. 55. Student is also entitled to 60 minutes daily working on IEP goals with the paraprofessional under the direction of a special education teacher, as well as 30 minutes daily with her case manager to check on back and forth notebook from home, daily concerns, and updates. *Id.*
19. The IEP Team determined it was appropriate for Student to be in the general education class at least 80 percent of the time. *Id.* at p. 56.
20. The prior written notice section indicates Parents would like Student to use the Talker more in the general education classroom, and that SLP will help train her paraprofessional and all adults that work with her on how to use the Talker in the general education setting. *Id.* at p. 57.
21. Although drafted and developed on March 31, 2021, the 2021 IEP underwent a series of revisions between that time and the beginning of the 2021-2022 academic year. *Interviews with Parents, Director of Special Education, and Special Education Teacher.* Student nevertheless received services under the 2021 IEP, starting on or about April 13, 2021 through the end of the 2020-2021 academic year. *Id.* Parents allege District failed to hold an annual IEP review for Student during the 2020-2021 academic year because the 2021 IEP was still being revised up until September 13, 2021. *Interview with Parents.*

D. Revisions to the 2021 IEP

Second and Third Meetings Regarding the 2021 IEP

22. The 2021 IEP was provided to Parents for review via email on April 8, 2021. *Exhibit H*, p. 6. The next day Parents responded that the document was confusing as they were under the impression the annual goals would stay the same (there was a note on the front of the draft that said a high school teacher would “work on the annual goals”). *Id.* at p. 7. Parents requested a meeting to discuss the 2021 IEP, and on April 12, 2021, Director of Special Education agreed to schedule a meeting. *Id.*

23. On April 13, 2021, Student's IEP Team met to discuss possible revisions to the 2021 IEP and possible compensatory educational services for Student because of services missed during COVID-19 related school closures. *Interviews with Director of Special Education and Parents; Exhibit A*, p. 31; *Exhibit D*, p. 3.
24. Parents and District did not reach agreement about the contents of the 2021 IEP, so another meeting was scheduled for April 20, 2021. *Exhibit A*, p. 60. In addition to the required IEP Team members, Director of Special Education, District superintendent, and staff from the District high school where Student would attend 9th grade ("School") were in attendance. *Interview with Director of Special Education, Parents, and SLP*.
25. At the April 20, 2021 meeting, Parents again requested revisions to the 2021 IEP, and District agreed to make the revisions. *See Exhibit A*, p. 60; *Interview with Director of Special Education*. District also agreed to provide compensatory education for services missed during COVID-19 school closures. *Exhibit A*, p. 60; *Interviews with Parents and Director of Special Education*.
26. On May 5, 2021, Parents emailed Director of Special Education asking when they would receive another draft of the 2021 IEP, and Director of Special Education replied the next day to say that Parents would have a new draft by the end of the week. *Exhibit H*, pp. 10-11.

Fourth Meeting Regarding the 2021 IEP

27. On May 20, 2021, Parents emailed Director of Special Education and asked for further revisions. *Exhibit H*, p. 12. Parents' educational advocate emailed Director of Special Education on May 25, 2021 to request another meeting. *Exhibit H*, pp. 13-14. Director of Special Education responded the same day and agreed to schedule a meeting, and pursuant to discussions at the meeting with the educational advocate, additional revisions were made to the 2021 IEP. *Id.* at p. 15; *Interview with Director of Special Education*.

Fifth Meeting Regarding the 2021 IEP

28. On June 16, 2021, Parents emailed Director of Special Education with additional requested revisions to the 2021 IEP. *Exhibit H*, p. 19. On June 17, 2021, Director of Special Education responded and said she would get with the IEP Team to make the changes and send an updated copy of the 2021 IEP by the end of the month. *Id.* at p. 20.
29. On August 9, 2021, District met with Parents and Student to tour School, introduce Student to School staff, and plan for the start of classes, since Student was transitioning into high school. *Interviews with Director of Special Education and Parents*. The plan for the upcoming year and additional revisions to the 2021 IEP were discussed. *Exhibit A*, p. 62.

30. The first day of classes at School was on August 18, 2021. *Interview with Director of Special Education*. Although District was still engaged in discussions with Parents about revisions to the 2021 IEP, Student began receiving services under the 2021 IEP when classes began. *Interviews with Director of Special Education, Parents, and Special Education Teacher*. On August 27, 2021, Parents emailed District and asked to hold a meeting to revise Student’s IEP. *Exhibit 10*, p. 1. Director of Special Education replied on the same date and an IEP meeting was scheduled for September 13, 2021. *Id.* at pp. 1-4.

Sixth Meeting Regarding the 2021 IEP

31. On September 13, 2021, a properly constituted IEP team met and, upon discussion, further revised the 2021 IEP. *Interviews with Parents, Director of Special Education, and Special Education Teacher; Exhibit D*, p. 4; *Exhibit A*, pp. 57-59. Parents indicate the IEP was “completed” at the September 13, 2021 IEP meeting. *Interview with Parents*.

32. Although the 2021 IEP was revised several times after it was developed on March 31, 2021—all at Parents’ request—the SCO finds it was finalized when Student began receiving services on or about April 13, 2021. The SCO further finds that the 2021 IEP was developed within a year of the development of the 2020 IEP.

E. District’s Response to Student’s Escalation of Behavior

33. Parents allege District failed to reevaluate Student to address a significant escalation of behavior at the beginning of the 2021-2022 academic year. *Complaint*, pp. 1-11; *Interview with Parents*.

The Escalation in Behavior

34. Parents report that, during the 2020-2021 academic year, Student displayed behaviors of concern at school, such as sleeping in class (due to Student’s sleep disturbances), “getting into things”, spitting, and one occasion when Student was unsupervised leaving the building after class and nearly ran into the road. *Interview with Parents*. Transitions throughout the day have always been particularly difficult for Student, and as a result, her 2021 IEP contains an annual goal to target transition skills. *Id.*; *Interview with Special Education Teacher*.

35. District discussed the possibility of a Functional Behavioral Assessment (“FBA”) and a Behavioral Intervention Plan (“BIP”) at the end of the 2020-2021 academic year, but Parents did not want either as Student was entering high school and they wanted to see how that went before making changes. *Interview with Parents*. Her behaviors were also relatively manageable in middle school, though she has always required constant supervision for safety. *Id.*

36. At the beginning of the 2021-2022 academic year, however, behavior escalated as she exhibited frequent running, spitting on adults, and damaging School property. *Interviews with Parents, SLP, and Special Education Teacher; See Exhibit E*, pp. 40-91; *Exhibit 2*, pp. 1-32; *Exhibit 3*, pp. 1-58; *Exhibit 4*, pp. 1-36; *Exhibit 5*, pp. 1-14. Although Student was supported 1:1 by a paraprofessional throughout the day, there were multiple incidents where staff were not able to successfully redirect her or manage behaviors without extensive coaxing. *Id.* Parents were concerned for Student's health and safety during the first few weeks of class. *Interview with Parents.*
37. Student has a Daily Log that is used to track behavior. *See, e.g., Exhibit E*, pp. 40-91. Paraprofessionals fill out the log with details about Student's time at School, such as the materials covered in class, homework and/or test dates, and how she performed. *See Exhibit E*, pp. 40-91; *Exhibit 2*, pp. 1-32; *Exhibit 3*, pp. 1-58; *Exhibit 4*, pp. 1-36; *Exhibit 5*, pp. 1-14. There is also a space for notes where paraprofessionals can detail behavioral incidents, and a space for Parents to leave notes for staff. *See, e.g., Exhibit E*, pp. 40-91. Student's case manager, Special Education Teacher, reviews the log daily. *Interview with Special Education Teacher.*
38. The log confirms frequent behavioral incidents noted by Student's support personnel during the first several weeks of class, including spitting, running, and damaging School property. *See, e.g., Exhibit 2*, pp. 3-4. The log likewise confirms support professionals were only able to manage disruptive behavior upon lengthy effort and with mixed results. *See Exhibit E*, pp. 40-91; *Exhibit 2*, pp. 1-32; *Exhibit 3*, pp. 1-58; *Exhibit 4*, pp. 1-36; *Exhibit 5*, pp. 1-14.
39. On September 8, 2021, Parents emailed District and requested an emergency meeting to "ensure that a crisis plan is created for what to do when behaviors escalate." *Exhibit H*, p. 45. An IEP meeting was already scheduled for September 13, 2021. *See id.; Interviews with Special Education Teacher, Parents, and Director of Special Education.*

The September 13, 2021 IEP Meeting

40. On September 13, 2021, a properly constituted IEP Team met to discuss final revisions to the 2021 IEP and the escalation of Student's behavior. *Interviews with Parents, Special Education Teacher, and Director of Special Education; Exhibit D*, p. 4; *Exhibit A*, pp. 57-59. In addition to the required IEP Team members, Director of Special Education, SLP, Parent's educational advocate, and one of Student's paraprofessionals attended. *Interview with Director of Special Education.*
41. The IEP Team agreed with Parents that Student's behavior had been escalating since the start of classes, and thus, upon suggestion from the educational advocate, a Crisis Plan was developed for occasions when her behavior escalated. *Interviews with Parents and Director*

of Special Education; see Exhibit A, p. 65. District also agreed to consult with an outside behavior specialist. *Interviews with Parents and Director of Special Education.*

The Crisis Plan

42. The Crisis Plan provides that Student is supported by her paraprofessional, the classroom teacher, and the administration, in that order. *Exhibit A*, p. 65. A crisis for Student is defined as self-harm (pushing chairs or large items to cause harm, throwing a chair more than five feet), spitting, retreating under the desk, or leaving the designated area. *See id.*
43. The Crisis Plan provides that if behavior escalates to a degree that she meets the criteria for a crisis, staff should follow the following steps (although the Crisis Plan provides that, depending on the behavior of concern, the steps might look different to fit the behavior): (1) Verbally restate the task, (2) Use a timer, (3) Call classroom teacher to assist (they will restate the task and then use a timer), and (4) Call office (and monitor for safety). *Id.*
44. All of Student's support staff were at the meeting, except for some of her general education teachers (who received a copy of the Crisis Plan via email after the meeting) and her paraprofessionals (although one attended the meeting). *Interview with Director of Special Education.* Special Education Teacher informed Student's paraprofessionals of their responsibilities under the plan after the meeting. *Interview with Special Education Teacher.*
45. In addition to the Crisis Plan, District began using a sticker chart. *Interview with Parents and Special Education Teacher.* When Student demonstrates positive behaviors, such as a transition with appropriate behavior, paraprofessionals are instructed to give Student a sticker. *Interview with Special Education Teacher.* Paraprofessionals are told to award Student with a sticker for anything positive, as the goal is for Student to achieve success. *Id.* If Student fills up her sticker chart, she earns a reward. *Id.*

Consultation with Outside Behavioral Specialist

46. On September 28, 2021, School staff met with an outside behavioral specialist to discuss Student's behavior. *Interview with Director of Special Education; Response*, p. 2. At that time, however, Special Education Teacher reported that her behaviors had deescalated since the implementation of the sticker chart and the Crisis Plan. *Interview with Director of Special Education.* As a result, District decided further action was unnecessary. *Id.*

Student's Behavior After September 13, 2021

47. After the September 13, 2021 IEP meeting and the implementation of the Crisis Plan and the sticker chart, Student's behavior improved. *Interviews with Special Education Teacher,*

SLP, and Parents; Reply, p. 2. Parents are concerned, however, that Student's behaviors are unmanaged and result in her being pulled from class. *Interview with Parents; Reply*, p. 2.

48. District's position is that Student's behavior showed marked improvement after implementation of the Crisis Plan and the sticker chart, and that escalation in behavior at the beginning of the 2021-2022 academic year was the result of adjusting to high school. *Interviews with Special Education Teacher and SLP; Response*, pp. 1-5. Special Education Teacher and SLP both report that behavior has been Student's strongest point of growth this academic year, and on occasions when her behavior requires an intervention, they are often successfully managed by staff. *Interviews with Special Education Teacher and SLP*.
49. A typical intervention starts with a paraprofessional attempting to redirect Student. *Interview with Special Education Teacher*. If unsuccessful, the paraprofessional elicits help from the general education teacher. *Id.* If both attempts are unsuccessful, the paraprofessional offers Student a break, such as taking a walk, or works 1:1 with Student. *Id.* These interventions are typically successful in redirecting behavior, and Student has been making progress toward her goal in transition skills. *Id.* This semester, Student's behavior has been very manageable, and paraprofessionals have been giving her more space during transitions to see how she handles the extra autonomy (Student has moved to the second objective under her transition skills annual goal). *Id.*; see *Exhibit A*, p. 47.
50. Progress reports generated for Student for the 2021-2021 academic year demonstrate Student made progress toward each of her annual goals, including her goal in transition skills. *Exhibit F*, pp. 1-26; *Interview with Special Education Teacher*. In terms of grades, Student has earned all As or Bs for the Fall of 2021, which is a slight decrease from the previous year (but Student is passing every class). *Exhibit G*, p. 1-2.
51. The SCO finds, upon review of the Daily Logs, that Student's behavior showed a pattern of de-escalation after the September 13, 2021 meeting. See *Exhibit E*, pp. 40-91; *Exhibit 2*, pp. 1-32; *Exhibit 3*, pp. 1-58; *Exhibit 4*, pp. 1-36; *Exhibit 5*, pp. 1-14; *Consult with CDE Content Specialist 1*. Although the Daily Logs demonstrate Student still sometimes exhibits disruptive behaviors, and on isolated occasions, staff have trouble redirecting Student, the logs are corroborated by information provided by District staff in that there has been a de-escalation in behavior after September 13 and efforts to redirect disruptive behavior have been largely effective. The SCO now turns to Parents concerns with IEP implementation.

F. Implementation of the 2021 IEP (August 18, 2021 to present)

52. Parents' concern is that Student was not provided with accommodations and modifications consistent with the 2021 IEP. *Interview with Parent; Complaint*, pp. 1-11. Specifically, Parents' primary concern is that teachers and paraprofessionals were not trained to use the Talker, and Student was not allowed to use the Talker in every class throughout the day.

Interview with Parents. Parents also allege that Student was removed from her LRE and placed in the special education room on multiple occasions for the convenience of staff. *Id.*

Accessibility to Student's Teachers

53. Special Education Teacher trains all staff in their responsibilities under the 2021 IEP, and all of Student's teachers were provided with snapshots from the 2021 IEP at the beginning of the year. *Interview with Special Education Teacher.* Special Education Teacher maintains email contact with general education teachers about Student's progress, and she scheduled a meeting for the general education teachers at the beginning of the year to discuss Student's needs (although only two of her four general education teachers attended). *Id.* Special Education Teacher reports, however, that support paraprofessionals are responsible for providing many of Student's accommodations throughout the day. *Id.*
54. Special Education Teacher is responsible for directing Student's support paraprofessionals. *Id.* There were meetings between Special Education Teacher and the paraprofessionals before the beginning of the year, and Special Education Teacher engages in informal discussions with paraprofessionals at the end of each day about how the day went. *Id.*
55. All of Student's support paraprofessionals, except for one who has direct access and is regularly included in meetings about Student, can access the 2021 IEP through Special Education Teacher. *Interviews with Director of Special Education and Special Education Teacher.* Special Education Teacher is also involved with reviewing the Daily Logs each day to ensure behavior incidents are logged appropriately. *Interview with Special Education Teacher.*
56. The SCO accordingly finds that District appropriately informed Student's support personnel who are responsible for implementing the 2021 IEP of their responsibilities.

Implementation of the Talker

57. The 2021 IEP includes an accommodation that Student be "[a]llow[ed] [her] talking device as an answering tool." *Exhibit A*, p. 52. The Talker is also mentioned in the objectives contained in Student's annual goal in communication under the 2021 IEP. *Id.* at p. 43.
58. Contrary to Parents' position, the 2021 IEP only requires that Student be allowed to use the Talker as an answering tool, and there is no requirement that the Talker be used in every class. *Id.* at p. 52.
59. Student first started using the Talker prior to moving to Colorado upon advice from an out-of-state speech language pathologist. *Interviews with Parents and SLP.* SLP has worked with

Student since November of 2020. *Interview with SLP.* Student used the Talker some of the time during the 2020-2021 academic year with SLP, but it was inconsistent. *Id.*

60. Student can be understood without the Talker, but it is difficult. *Interviews with Director of Special Education, Special Education Teacher, SLP, and Parents.* Student has the Talker with her throughout each day, but she will not use it on her own and must be prompted. *Interview with SLP.*
61. Starting this year, SLP has paraprofessionals regularly attend speech-language therapy sessions so they can learn how to use the Talker (SLP regularly incorporates the Talker into her speech-language therapy sessions). *Id.* Over time, SLP has been training the paraprofessionals on how to “program” the device. *Id.* A paraprofessional attends each speech-language therapy session with Student. *Interviews with SLP and Special Education Teacher.*
62. The Talker allows Student to select between preprogrammed answer options so she can answer questions when prompted. *Interviews with SLP and Parents.* For Student to use the Talker, however, the Talker must be preprogrammed with appropriate responses for questions, such as vocabulary words to answer questions in class. *Id.* SLP indicates this has been the hard part of the training, and it has led to some issues with the Talker. *Id.*
63. Parents report that early in the 2021-2022 academic year, there was reluctance from some staff to program the Talker since it is Student’s private property. *Interview with Parents.* There have been occasions when a staff person’s use of the Talker resulted in technical issues, and Parents had to send the device to the manufacturer for repair. *Interview with SLP.* As a result, some paraprofessionals were reluctant to program the Talker (although Student has been using the Talker in her speech-language therapy sessions with SLP since the start of classes). *Id.*
64. As a result of staff reluctance, Parents requested that District purchase a second Talker. *Interview with Parents.* District purchased a second Talker for training staff, but the second Talker was never used by Student, as the Talker is Student’s voice, and thus, more than a piece of technology that can simply be swapped out in different settings. *Interviews with Director of Special Education and SLP.*
65. Talker issues notwithstanding, Student has the device for the entirety of each day at School. *Interviews with Parents, Special Education Teacher, and SLP.* Although there was a period at the beginning of the year when some of Student’s paraprofessionals were reluctant to program the Talker, Student is always permitted to bring the Talker with her throughout each day. *Interview with SLP.* Student does not use the Talker on her own, but paraprofessionals are trained to use the Talker, and they prompt Student to use the Talker at various points throughout the day. *Interviews with SLP and Special Education Teacher.*

66. SLP consistently uses the Talker during Student's speech and language therapy sessions, and a paraprofessional attends each session. *Interviews with Special Education Teacher and SLP.* Student's paraprofessionals consistently allow Student to use the Talker for greeting teachers in classes, although she prefers to greet other children verbally by saying, "what's up?" *Id.* SLP indicates the Talker is used most often in English and Science but is not sure how much it is used in other subjects. *Interview with SLP.* Special Education Teacher says the Talker is not often used in Physical Education. *Interview with Special Education Teacher.*
67. SLP indicates there have been attempts to use the Talker in general education classes so Student can answer questions from the general education teacher, but those attempts have been unsuccessful. *Interview with SLP.* The Talker requires time to use, as Student must be prompted to navigate between folders and select an appropriate response to a question. *Id.* In class, the delay often prevents Student from having an opportunity to answer questions from the general education teacher, so the Talker is not often used for that purpose. *Id.*
68. The SCO finds, based on the level of detail and similarity between Special Education Teacher and SLP's accounts, and upon consultation with CDE Content Specialist 2, that Student is allowed the use of the Talker throughout the day to answer questions, consistent with the 2021 IEP. *Interviews with SLP and Special Education Teacher; Consultation with CDE Content Specialist 2.* The SCO accordingly finds District implemented the 2021 IEP in this respect.

Removals to the Special Education Room

69. Parents final implementation concern is that Student was not educated consistent with the 2021 IEP's LRE (general education classroom at least 80 percent of the time) on multiple occasions during the 2021-2022 academic year for the convenience of staff. *Interview with Parents; Exhibit A, p. 56.*
70. Special Education Teacher recalls one occasion when District experienced an unexpected shortage of paraprofessionals. *Interview with Special Education Teacher.* Because Special Education Teacher was going to be working 1:1 with a student with significant needs in the special education room, she asked a paraprofessional to work with Student in the special education room so she would have support if something were to happen with the other student. *Id.* The paraprofessional was only working 1:1 with Student during this time and was only in the room with Special Education Teacher as a precaution. *Id.*
71. Parents also recall a second occasion when Student was sent to the special education room to receive services with a paraprofessional because one of her teachers was unexpectedly absent, and there was insufficient staff available in the general education classroom. *Interview with Parents.* District concedes there have been two isolated incidents during the

Fall of 2021 where, due to unexpected staff shortages, Student received all services she was entitled to under the 2021 IEP in the special education room. *Response*, p. 3.

72. The SCO finds that, on two occasions during the 2021-2022 academic year, Student was removed from her LRE to the special education room, due to unexpected staff shortages.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District held an annual review meeting, on or by April 13, 2021, to review and, as appropriate, revise Student's IEP, consistent with 34 C.F.R. § 300.324(b).

The first allegation accepted for investigation suggests that District failed to hold an annual IEP meeting to review and, as appropriate, revise the 2020 IEP.

Each public agency must ensure that the IEP Team reviews the IEP for each child with a disability not less than annually to determine whether the annual goals for the child are being achieved; and revises the IEP as appropriate to address any lack of expected progress toward annual goals, results of any reevaluation, information about the child provided to or by the parents, and the child's anticipated needs. 34 C.F.R. § 300.324(b). Nothing in the law requires the IEP team to hold its annual review on or around the anniversary date of the last review or creation of the IEP, as long as it meets the IDEA requirement for review "not less than annually." *See id.*

In this case, Student transferred to District in the summer of 2020, and District developed the 2020 IEP on September 9, 2020. (FF # 3). As a result, District needed to hold an annual review on or before September 9, 2021. *See id.* District completed Student's reevaluation in March of 2021. (FF # 6). District then met with Parents to review and revise the 2020 IEP and develop the 2021 IEP on March 31, 2021. (FF # 9). Thus, District fulfilled its obligation to review the 2020 IEP not less than annually. The 2021 IEP was also implemented by April 13, 2021, when Student began receiving services. (FF # 21).

After the 2021 IEP was completed and implemented, Parents requested as many as five revisions over the course of as many months. (FF # 22-32). District promptly responded to those requests by scheduling as many as five additional IEP meetings and revising the 2021 IEP according to Parents' requests. *Id.* District was not obligated to repeatedly meet with Parents so quickly after the 2021 IEP's development and implementation, particularly because Student did not exhibit a changed or unmet educational need. Indeed, a parent's dissatisfaction with an IEP does not create an obligation for a school district to review and revise the IEP in the absence of an educational need. *See* 34 C.F.R. § 300.324(b). Nevertheless, District went above and beyond what was required under IDEA.

The SCO accordingly finds and concludes that District held an annual IEP review meeting consistent with 34 C.F.R. § 300.324(b).

Conclusion to Allegation No. 2: Student’s behavior at the beginning of the 2021-2022 academic year did not trigger District’s obligation to reevaluate Student under 34 C.F.R. § 300.303. Therefore, no reevaluation was required under IDEA.

In the Complaint, Parents allege that District failed to reevaluate Student to address a significant escalation in behavior during the beginning of the 2021-2022 academic year.

Under the IDEA, a school district must reevaluate a student with a disability in two situations:

- (1) If the [school district] determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
- (2) If the child’s parent or teacher requests a reevaluation.

34 C.F.R. § 300.303(a). Such a reevaluation must occur at least once every three years and may not occur more than once a year unless the parent and school district agree otherwise. *Id.* § 300.303(b).

School districts must be alert to signs that a reevaluation is warranted, even when a triennial evaluation is not due and even when the parent has not requested a reevaluation, to ensure the student's IEP continues to be reasonably calculated to enable the child to make progress that is appropriate in light of the child's circumstances. *Arapahoe Cty. Sch. Dist. 6*, 120 LRP 16800 (SEA CO 03/24/2020) (citing *Questions and Answers on Andrew F. v. Douglas Cnty. Sch. Dist. Re-1*, 71 IDELR 68 (EDU 2017)). The IDEA provides no guidance on determining when a student’s education or related services needs would warrant a reevaluation. Decisions by courts and hearing officers have identified certain circumstances that trigger a school district’s obligation to reevaluate. *See, e.g., M.T.V. v. DeKalb Cty. Sch. Dist.*, 446 F.3d 1153 (11th Cir. 2006) (reevaluation warranted where student had made significant progress on goals and appeared to no longer qualify for special education and related services); *West-Linn Wilsonville School District v. Student*, 63 IDELR 251 (D. Ore. 2014) (significant change in student’s behavior warranted reevaluation); *Springfield Sch. Comm. v. Doe*, 623 F. Supp. 2d 150 (D. Mass. 2009) (school district had obligation to reevaluate student with excess absenteeism).

Here, when Student started classes for the 2021-2022 academic year, her behavior escalated, and staff observed frequent spitting, running, and damaging School property – as evidenced by the Daily Log. (FF # 36). Student historically requires support for behavior, but it was relatively manageable the previous year. (FF # 34). Parents became concerned for Student’s health and

safety during the first few weeks of classes and thus requested an emergency meeting with District to discuss Student's behavior and develop a crisis plan. (FF # 36, 39). Parents did not request a reevaluation, although they did request a consultation with a behavioral specialist, which District agreed to do. *See* (FF # 41). Notably, District proposed development of a BIP in the Spring of 2021, but Parents wanted to wait and see how things went in high school. (FF # 35).

On September 13, 2021, District met with Parents. (FF # 40). Student's most recent reevaluation occurred in March of 2021, not long before the start of the 2021-2022 academic year, and that reevaluation included a behavioral assessment which found Student's adaptive behavior to be the "Extremely Low" range. (FF # 7). As a result of the reevaluation, the 2021 IEP was developed to include behavioral supports, such as 1:1 support from a paraprofessional throughout each day, and an annual goal around transition skills, as Student's historical behavioral struggles often center around transitions at school. (FF # 15, 34).

At the September 13, 2021 meeting, District agreed with Parents that Student's behavior had escalated, and, as a result, took steps to address the escalation. (FF # 40-46). First, District developed the Crisis Plan for occasions when Student's behavior escalated. (FF # 41-45). Second, District implemented positive behavioral reinforcement strategies through the sticker chart. (FF # 45). Third, District agreed to contact an outside behavioral specialist to meet with School staff and discuss Student's behavior. (FF # 41). Finally, District tracked Student's behavior through the Daily Log, which was collaborative and shared with Parents. (FF # 37).

District promptly met with Parents to respond to Student's changing behavioral needs and took appropriate action to develop additional behavioral supports. While a significant escalation in behavior may warrant a reevaluation in some circumstances, here, District had recent behavioral data from the March 2021 reevaluation. (FF # 7). Also, after the September 13, 2021 meeting, Student's behavior improved. (FF # 47).

Apart from some isolated occasions during the Fall of 2021 where Student exhibited behavior that was unmanageable by staff, her behavior substantially improved over the course of the academic year. (FF # 47). Student's behavior is now largely manageable, and paraprofessionals have been gradually increasing Student's autonomy during transitions and moving to the second objective of Student's transition skills goal. (FF # 49). When District consulted with the outside behavioral specialist on September 28, 2021, Student's behavior had improved, and as a result, District did not make additional changes to Student's programming. (FF # 46).

The SCO accordingly finds that District was not required to reevaluate Student pursuant to 34 C.F.R. § 300.303.

Conclusion to Allegation No. 3: District failed to properly implement the 2021 IEP by removing Student from her LRE to the special education room due to staff shortages on two occasions during the Fall of 2021, in violation of 34 C.F.R. § 300.323. This failure to implement was not material.

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

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

A. Implementation of the 2021 IEP (August 18, 2021 to Present)

Parents’ Concerns

The 2021 IEP has been in effect since the beginning of classes on August 18, 2021. *See* (FF # 30). Parents allege District failed to implement it during this time. (FF # 52). Their primary concerns center on a failure to train support personnel on Student’s Talker, and a failure to allow Student to use the Talker in every class throughout the day. *Id.* Parents also allege Student has been removed from her LRE to the special education room for the convenience of staff. *Id.*

Accessibility to Student’s Teachers and Paraprofessionals

First, the SCO must determine whether District satisfied its obligation under 34 C.F.R. § 300.323(d).

Here, general education teachers were provided with a snapshot of the accommodations under the 2021 IEP at the beginning of the year. (FF # 53). Special Education Teacher is responsible for ensuring teachers are informed of their responsibilities under the 2021 IEP, and she maintains regular email contact with general education teachers about Student’s progress. *Id.* Special Education Teacher organized a meeting for the general education teachers at the beginning of the year to discuss Student’s needs, and she monitors Student’s progress through the Daily Log. (FF # 53, 55).

Special Education Teacher is also responsible for directing paraprofessionals, and she trained paraprofessionals in their responsibilities under the 2021 IEP at the beginning of the year. (FF # 54). Special Education Teacher engages in informal discussions with paraprofessionals about Student's progress at the end of each day, and at least one of the paraprofessionals is invited to all of Student's IEP meetings. (FF # 54-55).

The SCO accordingly finds and concludes that District ensured teachers and service providers working with Student were informed of their responsibilities under the 2021 IEP.

Student's Talker

The 2021 IEP includes an accommodation that Student must be allowed to use the Talker as an answering device. (FF # 16). The 2021 IEP does not require that Student use the Talker during any specific class or activity beyond the speech-therapy sessions with SLP. See (FF # 15-16, 58).

SLP is familiar with using the Talker, and since the beginning of the year, she has invited paraprofessionals to attend Student's weekly speech-language therapy sessions where the Talker is used. (FF # 59, 61). SLP regularly incorporates the Talker into those speech-language therapy sessions, and she has been teaching Student's paraprofessionals how to program the device over time, so it can be used more effectively in other settings. (FF # 59, 67).

Although there was some reluctance from paraprofessionals to program the Talker at the beginning of the year, paraprofessionals regularly prompt Student to use the Talker to greet teachers in classes, and the Talker is regularly used in English and Math classes, in addition to the speech-language therapy sessions. (FF # 65-67). Student is permitted to use the Talker throughout each day and has the device available to her in all her classes. (FF # 65).

For these reasons, the SCO find and concludes that District implemented the 2021 IEP in this respect, consistent with 34 C.F.R. § 300.323.

Removals to the Special Education Room

The 2021 IEP provides that Student's LRE is the general education classroom at least 80 percent of the time. (FF # 19). During the Fall of 2021, there were two occasions when Student was removed from her LRE to the special education room because of unexpected staff shortages. (FF # 69-72). During those occasions, although Student was provided with special education and related services under the 2021 IEP, Student was not educated consistent with the 2021 IEP's LRE. (FF # 19, 69-72). The decision to remove Student from her LRE to the special education room was made due to staff shortages, not on Student's individualized needs. See (FF # 70-71).

For these reasons, the SCO finds and concludes that District failed to implement the 2021 IEP in this respect. The SCO must now determine whether this failure to implement was material.

Materiality of Failure to Implement

Where the definition of a FAPE specifically references delivery of special education and related services consistent with an IEP, the failure to implement an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.19. However, not every deviation from an IEP's requirements results in a denial of a FAPE. *See, e.g., L.C. and K.C. v. Utah State Bd. of Educ.*, 125 Fed. Appx. 252, 260 (10th Cir. 2005) (holding that minor deviations from the IEP's requirements which did not impact the student's ability to benefit from the special education program did not amount to a "clear failure" of the IEP); *T.M. v. District of Columbia*, 64 IDELR 197 (D.D.C. 2014) (finding "short gaps" in a child's services did not amount to a material failure to provide related services). Thus, a "finding that a school district has failed to implement a requirement of a child's IEP does not end the inquiry." *In re: Student with a Disability*, 118 LRP 28092 (SEA CO 5/4/18). Instead, "the SCO must also determine whether the failure was material." *Id.* Courts will consider a case's individual circumstances to determine if it will "constitute a material failure of implementing the IEP." *A.P. v. Woodstock Bd. of Educ.*, 370 Fed. Appx. 202, 205 (2d Cir. 2010).

"A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP." *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007). The materiality standard "does not require that the child suffer demonstrable educational harm in order to prevail." *Id.* But a child's educational progress, or lack thereof, may indicate whether there has been more than a "minor shortfall in the services provided." *Id.*

Here, on only two occasions during the Fall of 2021, Student was not educated consistent with the LRE required by the 2021 IEP. (FF # 70-71). The two incidents were isolated, and on both occasions, Student was provided with the special education and related services under the 2021 IEP. (FF # 71). Despite the removals, Student showed progress on her annual goals and is passing every one of her classes with an A or a B. (FF # 50). This progress is a strong indication that District's deviation from the 2021 IEP's LRE requirement was a minor shortfall.

The SCO accordingly finds and concludes that the failure to implement the 2021 IEP was not material and did not result in a denial of FAPE.

Systemic IDEA Violations

Pursuant to its general supervisory authority, CDE must consider and ensure the appropriate future provision of services for all IDEA-eligible students in 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 Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

Here, there is no evidence that the violation noted in this Decision is systemic. District removed Student from her LRE to the special education room on two occasions during the Fall of 2021 due to unexpected staff shortages. (FF # 70-72). While the IDEA does not permit a school district to deviate from a student’s required special education and related services because of staff shortages, the occasions when District removed Student here were due to unusual and unexpected staff absences, and not a regular practice. Importantly, District ensured that Student still received special education and related services under the 2021 IEP. (FF # 70-71).

The SCO accordingly finds and concludes that there is no evidence that the violation noted in this Decision is systemic.

REMEDIES

The SCO finds and concludes that District has violated the following IDEA requirement:

1. Failing to properly implement the 2021 IEP, in violation of 34 C.F.R. § 300.323.

To remedy this violation, District is ORDERED to take the following actions:

1. **Corrective Action Plan**

- a. By **Monday, February 28, 2022**, District shall submit to CDE a corrective action plan (“CAP”) that adequately addresses the violations noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom District is responsible. The CAP must, at a minimum, provide for the following:
 - i. Special Education Director and Special Education Teacher must review this Decision in its entirety and the requirements of 34 C.F.R. § 300.323 with District’s legal counsel, no later than **Monday, March 7, 2022**. If these individuals are no longer employed with District, District may substitute individuals occupying identical roles to demonstrate compliance with this remedy.
 - ii. A signed assurance that these materials have been reviewed must be completed and provided to CDE no later than **Friday, March 18, 2022**.

- b. CDE will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, CDE will arrange to conduct verification activities to confirm District's timely correction of the areas of noncompliance.

Please submit the documentation detailed above to CDE as follows:

Colorado Department of Education
Exceptional Student Services Unit
Attn.: Becky O'Malley
1560 Broadway, Suite 1100
Denver, CO 80202-5149

NOTE: Failure by the District to meet any of the timelines set forth above may adversely affect District's annual determination under the IDEA and subject District to enforcement action by the Department. **Given the current circumstances surrounding the COVID-19 pandemic, the Department will work with District to address challenges in meeting any of the timelines set forth above due to school closures, staff availability, or other related issues.**

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. If either party disagrees with this Decision, their remedy is to file a Due Process Complaint, provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. See 34 CFR § 300.507(a) and Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 156, 46607 (August 14, 2006).

This Decision shall become final as dated by the signature of the undersigned State Complaints Officer.

Dated this 31st day of January, 2022.



Ross Meyers
State Complaints Officer

APPENDIX

Complaint, pages 1-11

Response, pages 1-5

- Exhibit A: IEPs
- Exhibit B: PWN
- Exhibit C: Requests for Consent
- Exhibit D: Notices of Meeting
- Exhibit E: Service Logs
- Exhibit F: Progress Reports
- Exhibit G: Grades and Attendance
- Exhibit H: Correspondence
- Exhibit I: Evaluation Report
- Exhibit J: Policy and Procedure

Reply, pages 1-4

- Exhibit 1: Behaviorist Email
- Exhibit 2: Daily Notes # 1
- Exhibit 3: Daily Notes # 2
- Exhibit 4: Daily Notes # 3
- Exhibit 5: Daily Notes # 4
- Exhibit 6: Examples of Unmodified Work
- Exhibit 7: Sept IEP Email
- Exhibit 8: Issues with the IEP
- Exhibit 9: Request Re IEP in the Summer
- Exhibit 10: Request to Finish IEP
- Exhibit 11: Data Sheet from Beginning of Year
- Exhibit 12: Email P.E. Talker
- Exhibit 13: Email Sent After November Meeting

Telephonic Interviews:

- Director of Special Education: January 13, 2022
- Parents: January 11, 2022
- Special Education Teacher: January 13, 2022
- Speech Language Pathologist: January 13, 2022