

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

**State-Level Complaint 2022:525
Moffat County School District RE-1**

DECISION

INTRODUCTION

On May 6, 2022, the parent (“Parent”) of a student (“Student”) previously identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state-level complaint (“Complaint”) against Moffat County School District RE-1 (“District”). The State Complaints Officer (“SCO”) determined that the Complaint identified three allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 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), the Colorado Department of Education (the “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 May 6, 2021 through May 6, 2022 for the purpose of determining if a violation of 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 the District denied Student a Free Appropriate Public Education (“FAPE”) because the District:

1. Failed to develop an IEP tailored to Student’s individualized needs in September 2021, in violation of 34 C.F.R. §§ 300.320 and 300.324, specifically as follows:

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.

- a. Failing to include accommodations necessary for Student to advance appropriately toward his annual goals and to be involved in and make progress in general education; and
 - b. Failing to include a measurable communication goal.
2. Failed to appropriately respond to Parent’s request for amendment of records following Student’s September 2021 IEP Team meeting, in violation of 34 C.F.R. §§ 300.618(a)-(b) and 300.619.
 3. Failed to properly implement Student’s IEP between August 1, 2021 and present, in violation of 34 C.F.R. § 300.323, specifically by:
 - a. Failing to communicate major changes of schedule with Student’s family in advance.

FINDINGS OF FACT

After thorough and careful analysis of the entire Record,² the SCO makes the following FINDINGS OF FACT:

A. Background

1. For a portion of the 2021-2022 school year, Student attended fourth grade at a District elementary school (“School”). *Interview with Parent*. Parent homeschooled Student for the remainder of the school year. *Id.*
2. Student began the school year eligible for special education and related services under the disability categories of Other Health Impairment (“OHI”) and Autism Spectrum Disorder (“ASD”). *Exhibit A*, p. 43. In November 2021, the District found that Student was no longer eligible for special education and related services. *Id.* at pp. 133-136.
3. Student excels academically and is a strong reader. *Interview with Fourth Grade Teacher*. In fourth grade, Student was a leader in the classroom and often the first to offer to help his peers. *Id.* He enjoys outside activities and playing basketball. *Interview with Parent*.

B. 2021 IEP

4. In March 2021, Student transferred to the District from another school district in Colorado (“Prior District”). *Id.* The District convened an IEP Team to review Student’s IEP from Prior District (“Prior IEP”) and develop an appropriate initial IEP for the District. *Interview with*

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

Case Manager. The resulting IEP was dated April 1, 2021 (“2021 IEP” or the “IEP”). *Exhibit A*, pp. 43-59.

5. The section of the 2021 IEP regarding present levels of performance indicated that Student had transitioned well during his first weeks at School. *Id.* at p. 46. School staff were still getting to know Student and his academic abilities. *Id.*
6. Per the 2021 IEP, Student’s disabilities historically impacted his ability to read social cues, respond appropriately in social settings, and use problem-solving skills. *Id.* at p. 48.
7. The 2021 IEP contained six annual goals in the areas of writing, social-emotional wellness, and communication. *Id.* at pp. 49-52.
 - Writing: “[Student] will revise his own six to seven sentence essay containing a topic sentence, reasons, and supporting details by having made at least 3 changes from the draft to the final product an average of 80% of the time given 4 opportunities over a 6 week period.”
 - Social-Emotional Wellness: “In individual sessions with the school counselor, [Student] will engage in routine practice of a variety of coping strategies (i.e. mindfulness, breathing exercises, positive self-talk) for 5 minute period in 3 out of 4 opportunities.”
 - Social-Emotional Wellness: “When [Student] is presented with a transition or shift in activities at recess, he will independently use flexible thinking strategies (i.e. consider alternatives, trying something new, positive self-talk) to engage in a new activity within 1 minute in 3 out of 4 opportunities.”
 - Social-Emotional Wellness: “In the general education classroom, [Student] will engage in socially appropriate behaviors (i.e. waiting for a peer to finish, conversational turn taking, attending to the needs of others, engaging in conversational topics of interest to another, responding to attempts to initiate conversation) 80% of the time as measured monthly in classroom observations over a 3 month data collection period.”
 - Communication: “[Student] will independently end an interaction by using a variety of transition phrases, appropriate to the social scenario, in 80% of observed opportunities, as judged by the clinician.”
 - Communication: “[Student] will respond to greetings with expected behaviors including nonverbal and verbal language during 80% of observed opportunities.”

Id.

8. The 2021 IEP contained numerous accommodations, including “forewarn[ing] of changes in schedule and routine” and communicating “major changes to schedule with family beforehand.” *Id.* at p. 52.
9. Under the 2021 IEP, Student received the following special education and related services:
- Special Education: 600 minutes per month of direct special education instruction inside the general education classroom.
 - Occupational Therapy: 90 minutes per year of indirect occupational therapy.
 - Mental Health Services:
 - 120 minutes per month of direct mental health services inside the general education classroom;
 - 30 minutes per month of direct mental health services outside the general education classroom; and
 - 40 minutes per month of indirect mental health services outside the general education classroom.
 - Speech Therapy: 80 minutes per month of direct speech therapy outside the general education classroom.

Id. at p. 56.

10. Per the 2021 IEP, Student spent at least 80% of the time in the general education classroom. *Id.* at p. 57.
11. The 2021 IEP contained a prior written notice (“PWN”) indicating that Student’s IEP Team considered completing his triennial evaluation during Spring 2021 but decided to wait until Fall 2021 to give School staff more time to get to know Student. *Id.* at p. 58.

C. 2021-2022 School Year

12. The 2021 IEP was in effect when the 2021-2022 school year began. *Id.* at pp. 43-58; *Interview with Case Manager*. Before school started, Case Manager provided Student’s teachers and service providers with a snapshot of Student’s 2021 IEP. *Interview with Case Manager*. Fourth Grade Teacher reviewed the 2021 IEP and was familiar with the accommodations it required. *Interview with Fourth Grade Teacher*.

13. Shortly after the school year began, Parent requested the District hold an IEP Team meeting to discuss Student's accommodations. *Interviews with Case Manager and Parent*. In response, the District convened Student's IEP Team on September 13. *Interviews with Parent and Special Education Coordinator ("Coordinator")*. District Counsel also attended the meeting. *Exhibit B*.
14. During the meeting, the IEP Team discussed six accommodations that had been included in Student's Prior IEP but were not currently in the 2021 IEP. *Interviews with Parent and Coordinator*. One of those accommodations was home-to-school communication regarding Student's "daily participation, changes in his routines, and success." *Exhibit 7, p. 10*.
15. In Prior District, Student's teachers and service providers used an iPad in his classroom to complete a Google document that tracked Student's schedule, noted any changes to his schedule, and detailed any changes in his behavior. *Interview with Parent*. The document included, for example, information such as: whether Student received any push-in or pull-out services, if Student took a break and with whom, and described his interactions at recess. *Id.*
16. Parent found this particular accommodation essential to Student's success in Prior District. *Id.* According to Parent, Student struggles with severe anxiety. *Id.* At School, Student holds it together to appear normal but often falls apart once he arrives home. *Id.* The home-to-school communication in Prior District allowed Parent to consult the Google document to determine whether there were any changes in Student's day that might have increased his anxiety or any signs that his anxiety was building. *Id.* Such signs can include tensing, licking his lips, not eating his lunch, or decreasing his fluid intake. *Id.* If Parent saw these behaviors on Student's log, she would know that Student was struggling with his anxiety and that he might have a difficult night at home. *Id.*
17. The IEP Team discussed this accommodation during the meeting and asked Parent questions about how she envisioned the communication looking and why she thought it was necessary for Student. *Exhibit B*. Parent asserted that the home-to-school communication could be designed in a way that was not burdensome for School staff. *Id.* Parent emphasized the impact Student's anxiety had on his home life, telling the IEP Team that Student's anxiety was "more impactful to us than any of you." *Id.*
18. Ultimately, the IEP Team declined to add an accommodation for home-to-school communication to the 2021 IEP. *Id.; Interviews with Coordinator and Parent*. At the time, School staff had not observed any of the behaviors mentioned by Parent. *Interviews with Coordinator and Fourth Grade Teacher*. Student was excelling academically, acting as a leader, and handling transitions well. *Id.; Exhibit B*.

19. District members of the IEP Team felt that Student's needs could be met through the accommodations already in his IEP (namely, "forewarn[ing] of changes in schedule and routine" and communicating "major changes to schedule with family beforehand") and through existing communication avenues. *Exhibit A*, p. 52; *Exhibit B*; *Interviews with Coordinator and Fourth Grade Teacher*. School staff communicated with Parent through email and the Bloomz app. *Exhibit B*; *Interviews with Case Manager and Fourth Grade Teacher*.
20. The District agreed to provide Parent a copy of Student's schedule, access to service provider logs, and notice of changes in Student's schedule or behaviors. *Exhibit B*. Additionally, the District indicated it would create a communication plan that would outline who Parent should contact when she had concerns. *Id.*
21. Moreover, the District agreed to conduct a functional behavior assessment ("FBA") as part of Student's upcoming reevaluation to look at Student's behavioral needs. *Id.* The IEP Team could reconsider the home-to-school accommodation in light of the FBA. *Id.*

D. Parent's Requested Changes to the 2021 IEP

22. Parent disagreed with the decision by the IEP Team and did not think Student's needs could be met without the requested home-to-school communication. *Interview with Parent*. Following the meeting, Parent typed a summary of the discussion of the meeting from her perspective. *Id.*; *Exhibit G*, pp. 1262-1264. With regard to home-to-school communication, the summary provided, in part:

The [D]istrict repeatedly stated that they would not provide this reasonable accommodation to allow the entire IEP [T]eam data collection and insight into [Student's] daily life. A direct result of [Student's] disability is his inability to review his day, to discuss his concerns, issues, or challenges. It is up to his team, especially parents[,] to recognize his slight signals and review data collected during the day of pull outs, push ins, whom he is with, any behaviors, and changes etc. This data sharing for the past 2 years at [Prior District] has been invaluable to allowing the team to recognize challenges for [Student] and make minor corrections

Id. at p. 1263.

23. Parent sent her summary to Coordinator for inclusion in the parent input section of Student's IEP. *Interview with Parent*; *Exhibit G*, pp. 1262-1264.
24. The District included a portion of Parent's summary in the District's Meeting Documentation Form. *Exhibit A*, pp. 25-27; *Exhibit G*, pp. 1262-1264.

25. On October 10, Parent again requested that the summary be included in Student's IEP:

Parent input is to be added to the IEP, either in the parent input section or as an attachment to the IEP. Since I do not see it attached to the IEP you sent, I am requesting it be added, as is my right under IDEA.

Exhibit G, pp. 1147-1148. At the same time, Parent voiced concern that some of the decisions made at the IEP Team meeting had not been accurately recorded in Student's IEP. *Id.* Parent asked that the "errors on the IEP" be corrected and specifically highlighted errors in Student's accommodations and the service delivery grid. *Id.*

26. On October 22, the District sent Parent a copy of the IEP which corrected the errors in Student's service delivery grid and his accommodations. *Id.* at pp. 1147-1165. However, Coordinator declined to include the summary in the parent input portion of Student's IEP, asserting that "parent input is what took place during the meeting." *Id.* at p. 1147. Instead, Coordinator attached the audio recording from the September 13 meeting to Student's IEP because "the audio recording [was] a true and accurate record of the meeting and agreements." *Id.* The District electronically attached Parent's summary to Student's IEP in the District's data management system. *Interview with Coordinator.*

27. Though the District does not have a written policy or procedure regarding parent input, the District's practice is to include the input shared by the parent at the actual IEP Team meeting in the section of the IEP for parent input. *Id.* The District typically does not include anything in the parent input section that was not expressly shared at the meeting. *Id.*

E. Implementation of Student's Accommodations

28. This investigation concerns implementation of the accommodation in the 2021 IEP requiring advance communication of major schedule changes to Student's family. *Complaint*, pp. 5-6. Parent's Complaint alleged that she received "very few communications" about Student's schedule during Fall 2021 and that she was "sure there were assemblies, fire drills, etc." that were not communicated to Student's family. *Id.*

29. Fourth Grade Teacher primarily communicated with the parents of her students via the Bloomz app. *Interview with Fourth Grade Teacher.* The Bloomz app allowed Fourth Grade Teacher to send messages to her class as a whole or to message individual parents directly. *Id.* Parent was familiar with and used the Bloomz app to communicate with Fourth Grade Teacher. *Interviews with Fourth Grade Teacher and Parent.*

30. The day before the first day of School, Fourth Grade Teacher sent the classroom schedule to all parents via the Bloomz app. *Exhibit J*, p. 2. Fourth Grade Teacher tried to minimize major schedule changes for the ease of all of her students, including Student. *Interview with Fourth Grade Teacher.* However, when schedule changes occurred, parents were

notified of those changes through the Bloomz app. *Id.*; *Exhibit J*, pp. 1-59. For example, Fourth Grade Teacher sent all parents notice of:

- Reading assessments;
- NWEA assessments;
- Small groups for reading;
- Picture day;
- A change to music class;
- Halloween party;
- Field trip; and
- A change to science class.

Exhibit J, pp. 1-59.

31. Fourth Grade Teacher also communicated separately with Parent via Bloomz. *Exhibit G*, pp. 4-36. These communications directly notified Parent of:

- The schedule for the first day of school;
- An update to the classroom schedule;
- The beginning of Student’s speech services;
- The beginning of reading assessments and the day-to-day progress of those assessments;
- A change to Student’s break time;
- Each change to classroom seating arrangements;
- NWEA assessments;
- Two fire drills;
- Two changes to the afternoon schedule;
- Picture day;
- A math assessment; and
- A reward Student selected (which caused a minor change to his schedule).

Id. After notifying Parent of schedule changes, Fourth Grade Teacher separately communicated the changes to Student. *Interview with Fourth Grade Teacher*. Student adjusted well to transitions and schedule changes in the classroom. *Id.*

32. Additionally, School administration used Bloomz to send messages to all parents regarding any School-wide schedule changes. *Id.*

33. On October 1, Parent messaged Fourth Grade Teacher, praising Fourth Grade Teacher’s communication: “You are so supportive and I couldn’t be happier. Thank you so very much for communicating and supporting [Student]!” *Id.* at p. 23.

F. Student's Communication Goals

34. In her Complaint, Parent alleged Student's first communication goal—which required Student to use transition phrases to end an interaction—was unmeasurable. *Complaint*, p. 5. Specifically, Parent argued the goal could not be measured because it said “as judged by the clinician.” *Id.*
35. Measuring communication is harder and more nuanced than measuring, for example, a student's reading fluency. *Interview with Case Manager*. With reading fluency, Student can complete a test that shows the number of words per minute they can read, while communication is more about observing and listening. *Id.*
36. For that reason, Student's IEP Team included the “as judged by the clinician” language. *Id.*; *Interview Speech Language Pathologist (“SLP”)*. SLP—who is an expert in communication—was the “clinician” who tracked Student's progress on his communication goals. *Interviews with Case Manager and SLP*.
37. SLP built in opportunities for Student to naturally practice (and for her to measure) these skills on the way to and from his regularly scheduled speech services. *Id.* SLP had no difficulty measuring Student's progress on either of his communication goals. *Id.*
38. In March 2021, Student's baseline for this goal was 45%. *Exhibit C*, p. 2. According to Student's August 2021 progress report, Student was “ending conversations appropriately with nonverbal communication during 80-100% of observed opportunities across interactions.” *Id.*

G. Student's Grades and Attendance

39. During Fall 2021, Student excelled academically. *Interview with Fourth Grade Teacher*. His report card indicated that he met all academic standards. *Exhibit D*, pp. 2-5. Fourth Grade Teacher often used Student's work as an example for the class, because it was of such high quality. *Interview with Fourth Grade Teacher*. Student had no behavioral issues at School and few absences. *Id.*; *Exhibit D*, p. 1.

H. Student's Reevaluation and Exit from Special Education

40. The District completed Student's triennial reevaluation in November 2021. *Exhibit A*, pp. 105-121. In November, the District convened a multidisciplinary team to review Student's reevaluation and determine Student's eligibility for special education and related services. *Id.* at pp. 133-136.
41. The multidisciplinary team considered Student's eligibility under the disability categories of ASD and OHI—the categories in which Student was eligible at the time. *Id.* Ultimately,

the team concluded that Student was no longer eligible for special education and related services. *Id.* The District subsequently exited Student from special education. *Interviews with Case Manager and Coordinator.*

42. In February 2022, Parent disenrolled Student from School and began homeschooling him. *Interview with Parent.*

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: Student’s IEP was tailored to his individualized needs, consistent with 34 C.F.R. §§ 300.320 and 300.324. No violation of the IDEA occurred.

In her Complaint, Parent alleged the District failed to tailor Student’s IEP to his individualized needs, resulting in a violation of the IDEA. Specifically, Parent asserted that the District failed to: (1) include home-to-school communication as an accommodation, and (2) develop measurable communication goals.

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. The SCO will analyze each of the inadequacies alleged by parent under the *Rowley* standard.

A. Home-to-School Communication Accommodation

An IEP is “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 *Bd. of Educ. v. Rowley*, 458 U.S. 176, 181 (1982)). In developing an IEP, the IEP Team must consider the strengths of the child, the parent’s concerns, evaluation results, and “the academic, developmental, and functional needs of the child.” 34 C.F.R. § 300.324(a). Along with a statement of the special education and related services to be provided to the student, an IEP must identify any accommodations or modifications that will be provided to enable the child to make progress on annual goals and in the general education curriculum. *Id.* at § 300.324(a)(4)(i)-(iii). “Accommodations allow different instructional designs to support students and to enable them to receive instruction based on the general education curriculum and other content focus areas needed by the students, such as social, self-determination, and independent living skills.” *CDE IEP Procedural Guidance Manual*, p. 44 (July 2017), available at https://www.cde.state.co.us/cdesped/iep_proceduralguidance.

Under the first prong of the *Rowley* standard, nothing in the record indicates that the 2021 IEP did not comply with the IDEA's procedural requirements. Indeed, the 2021 IEP was developed at properly convened IEP Team meetings and contained numerous accommodations for Student. (FF #s 4, 8, 13, 18.) Parent has not alleged that the 2021 IEP was procedurally deficient; instead, she argued that Student could not adequately be supported without an accommodation for home-to-school communication. (FF #s 16, 17, 22.) Therefore, the SCO finds that the 2021 IEP satisfies the first prong of the *Rowley* test.

The second prong of the *Rowley* test considers whether the IEP was substantively appropriate by asking whether the IEP was reasonably calculated to enable the child to receive an educational benefit. Here, the SCO examines whether an accommodation for home-to-school communication was necessary for the 2021 IEP to be reasonably calculated to enable Student to receive an educational benefit.

The evidence in the record indicates that Student benefited from general education even without this accommodation. (FF #s 18, 39.) By all measures, Student was performing well at School. (*Id.*) His report card indicated that he met academic standards. (FF # 39.) Student's work was of such high quality that Fourth Grade Teacher used it as an exemplar in class. (*Id.*) He had no behavioral issues at School and few absences. (*Id.*) Student acted as a leader in his classroom and helped his peers. (FF # 18.) And, in November, the District exited Student from special education altogether. (FF #s 40-41.)

Parent asserted that detailed home-to-school communication was necessary because Student could not communicate how his day went like a student without disabilities. (FF #s 16-17.) Though Student kept it together at School, he often went to pieces at home, which impacted his family. (*Id.*) Parent sought home-to-school communication to provide her insight into Student's day to allow her to prepare for behavior and/or identify triggers for his anxiety. (*Id.*) Though the District refused to use a Google document to track Student's day, the District agreed to communicate changes to Student's schedule and behavior using existing communication methods (email and Bloomz). (FF #s 19.)

The SCO does not deny that the events of Student's school day might impact his home life, but the record simply does not evidence that Student needed the level of home-to-school communication requested by Parent in order to access his education. For these reasons, Student's 2021 IEP was reasonably calculated to enable Student to receive an educational benefit even without the home-to-school accommodation, satisfying the second prong of *Rowley*. The SCO, therefore, finds and concludes that Student's 2021 IEP—at least with regard to accommodations—was appropriately tailored to Student's needs, as required by 34 C.F.R. § 300.320.

Finally, the SCO cautions the District against letting counsel direct IEP Team meetings. Though District Counsel was not the de facto leader of the September 13 IEP Team meeting, District

Counsel, at times, controlled the discussion regarding Student's accommodations. The IDEA does not prohibit attorneys from attending IEP meetings; however, the Office of Special Education Programs ("OSEP") "strongly discourage[s]" attorney participation based on "the potential for creating an adversarial atmosphere that would not necessarily be in the best interests of the child." *Letter to Clinton*, 37 IDELR 70 (OSEP 2001). For the same reasons, the CDE strongly discourages attorneys from participating in IEP Team meetings and warns that counsel's attendance may, under certain circumstances, impede a parent's right to meaningfully participate in the meeting or result in decisions being driven by a single person, rather than made by the IEP Team. See *Douglas Cty. Sch. Dist.*, 118 LRP 16354 (SEA CO 11/22/17).

B. Measurable Communication Goals

Among other required components, an IEP must contain measurable annual goals designed to: (1) meet the needs that result from the student's disability to enable him or her to be involved in and make progress in the general education curriculum, and (2) meet each of the student's other educational needs that result from his or her disability. 34 C.F.R. § 300.320(a)(2).

Here, Parent argued that Student's communication goals were not measurable and, as a result, procedurally deficient. Specifically, Parent alleged the phrase "as judged by the clinician" rendered Student's first communication goal unmeasurable.

Under the first prong of *Rowley*, the SCO finds both of Student's communication goals to be measurable, in compliance with the IDEA's procedural requirements. The goals described the conditions under which Student will perform by requiring Student to demonstrate appropriate verbal or nonverbal behavior in a specific social setting (in response to a greeting or when ending an interaction). (FF # 7.) Both goals contained a measurable level of attainment (i.e. 80% of observed opportunities). (*Id.*) Measurement was limited to "observed opportunities" instead of all opportunities. (*Id.*)

The language "as judged by clinician" does not render the goals unmeasurable. As an expert in communication, SLP was the clinician responsible for monitoring Student's progress on these goals. (FF # 36.) She had the requisite knowledge to ascertain whether Student demonstrated appropriate social behavior for the particular setting. (*Id.*) In practice, SLP measured Student's progress by placing him in social settings where he would naturally need to end an interaction or respond to a greeting. (FF # 37.) SLP had no difficulty measuring Student's progress on his communication goals. (FF # 38.)

For these reasons, the SCO finds and concludes that Student's communication goals were measurable and complied with the IDEA's procedural requirements. Parent has not argued that the communication goals did not meet Student's needs. As a result, no analysis of the substantive nature of Student's goals is warranted. The SCO finds and concludes that Student's communication goals were tailored to Student's individualized needs, as required by 34 C.F.R. § 300.320.

Conclusion to Allegation No. 2: The District appropriately responded to Parent’s request to correct errors in Student’s IEP, consistent with 34 C.F.R. § 300.618. And Parent’s request to include her summary in the IEP did not constitute a request for amendment of records within the scope of 34 C.F.R. § 300.618. No violation of the IDEA occurred.

Parent alleges the District erred by failing to include her summary of the September 13 meeting as parent input in Student’s IEP and by failing to correct mistakes in Student’s IEP.

The IDEA establishes a procedure by which parents can request amendment of a student’s educational records. 34 C.F.R. § 300.618. Under § 300.618,

a parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request that the participating agency that maintains the information to amend the information.

Id. § 300.618(a). The school district must decide within “a reasonable period of time” whether to amend the information. *Id.* § 300.618(b). If the school district declines to amend the records, it must notify the parent of its decision and inform parent of his or her right to a hearing. *Id.* § 300.618(c).

Here, Parent undoubtedly asked the District to correct errors in Student’s IEP. (FF #s 22, 25.) Parent specifically believed the IEP inaccurately reflected decisions made at the September IEP Team meeting regarding Student’s accommodations and services. (FF # 25.) The District responded to Parent’s request within a reasonable time and corrected the errors in Student’s IEP. (FF # 26.) Because it corrected the errors, the District did not need to notify Parent of her right to a hearing.

However, the District declined to include Parent’s summary of the September IEP Team meeting into the parent input section of Student’s IEP. (FF # 26.) Parent has not alleged that the District prevented her from participating in the September IEP Team meeting or that the parent input section of the IEP, as written, was inaccurate or misleading. (See FF #s 22-27.) Instead, Parent felt frustrated at the IEP Team’s decision regarding home-to-school communication and wanted to memorialize her interpretation of the meeting in Student’s IEP. (*Id.*) The SCO agrees with the District that the best use of the parent input section of an IEP is to capture what was actually shared at the meeting, not a parent’s subjective summary of a meeting prepared after the fact. Nonetheless, the District attached Parent’s summary to the 2021 IEP and incorporated a portion of her summary into the District’s Meeting Documentation form. (FF #s 24, 26.)

Ultimately, Parent did not request that the District amend the parent input section of the IEP because it was misleading or inaccurate or violative of anyone’s privacy rights. For this reason, the SCO finds and concludes that Parent’s request to include her summary in Student’s IEP did

not constitute a request for amendment of records under 34 C.F.R. § 300.618. Without such a request, the District's obligations under 34 C.F.R. § 300.618 were not triggered. No violation of the IDEA occurred.

Conclusion to Allegation No. 3: The District properly implemented Student's IEP, consistent with 34 C.F.R. § 300.323. No violation of the IDEA occurred.

In her Complaint, Parent contends the District failed to properly implement Student's IEP between August and November 2021, because the District did not communicate major changes of schedule with Student's family in advance.

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*, 580 U.S. ___, 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.* 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).

As an initial matter, the SCO finds that Student's teachers and service providers were aware of their responsibilities under Student's IEP, including his accommodations. (FF # 12.) Before the first day of school, Case Manager provided a snapshot of Student's IEP to his teachers and service providers. (*Id.*) Therefore, the SCO concludes that the District complied with § 300.323(d).

Here, one of Student's accommodations required the District to notify Parent in advance of any major schedule changes. (FF # 8.) Parent has not identified any specific changes that the District failed to communicate to her but, instead, assumes the District did not notify her of all major schedule changes based on the limited notices she received. (FF # 28.) However, the record lacks any evidence that the District did not notify Parent of any major schedule changes. Instead, the record reflects that Fourth Grade Teacher communicated extensively with Parent, notifying her of assessments, fire drills, classroom schedule changes, and even new seating arrangements. (FF # 31.) These communications were in addition to separate messages sent to all parents in the class. (FF # 30.) The SCO cannot say, without a doubt, that Fourth Grade Teacher notified Parent of *every* major schedule change. Indeed, it is inherently difficult to determine whether Parent received notice of every major schedule change without knowing each and every change that

occurred. Nonetheless, the record evidences that Fourth Grade Teacher worked diligently (along with other School staff) to keep Parent abreast of schedule changes—large and small—for Student’s benefit. (FF #s 29-32.) In October, Parent even complimented Fourth Grade Teacher’s communication. (FF # 33.)

For these reasons, the SCO finds and concludes that the District properly implemented Student’s accommodation requiring communication of major schedule changes. No other implementation failure has been alleged. No violation of the IDEA occurred.

REMEDIES

The SCO concludes that the District did not violate the requirements of the IDEA as alleged in the Complaint. Accordingly, no remedies are ordered.

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. *CDE State-Level Complaint Procedures*, ¶13. 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. *CDE State-Level Complaint Procedures*, ¶13; *see also* 34 C.F.R. § 300.507(a) and *71 Fed. Reg. 156, 46607* (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned SCO.

Dated this 5th day of July, 2022.



Ashley E. Schubert
State Complaints Officer

APPENDIX

Complaint, pages 1-6

- Exhibit 1: Meeting documents
- Exhibit 2: Parent's summary of meeting
- Exhibit 3: Email correspondence
- Exhibit 4: Email correspondence
- Exhibit 5: Email correspondence
- Exhibit 6: Private evaluation
- Exhibit 7: Prior IEP
- Exhibit 8: 2021 IEP

Response, pages 1-4

- Exhibit A: IEPs, PWNs, and Notices of Meeting
- Exhibit B: Audio recording of September 13 meeting
- Exhibit C: Progress monitoring documents
- Exhibit D: Grade and attendance reports
- Exhibit E: School calendar
- Exhibit F: District policies and procedures
- Exhibit G: Email correspondence
- Exhibit H: Audio and video recordings of other meetings
- Exhibit I: District's position statement
- Exhibit J: Bloomz communications

Telephone Interviews

- Case Manager: June 15, 2022
- Fourth Grade Teacher: June 15, 2022
- Parent: June 20, 2022
- Special Education Coordinator: June 15, 2022
- Speech Language Pathologist: June 15, 2022