

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

**State Complaint SC2025-594
Mesa County Valley School District 51**

DECISION

INTRODUCTION

On July 22, 2025, the advocate (“Advocate”) for the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against Mesa County Valley School District 51 (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified two allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

On July 29, 2025, upon agreement of the parties, the CDE extended the 60-day investigation timeline to allow the parties to participate in mediation consistent with 34 C.F.R. § 300.152(b)(1). Mediation resulted in impasse, and the CDE resumed the investigation on August 27, 2025.

The CDE’s goal in state complaint investigations is to improve outcomes for students with disabilities and promote positive parent-school partnerships. A final written decision serves to identify areas for professional growth, provide guidance for implementing IDEA requirements, and draw on all available resources to enhance the quality and effectiveness of special education services.

RELEVANT TIME PERIOD

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after July 22, 2024. Information prior to July 22, 2024 may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

The Complaint raises the following allegations subject to the CDE’s jurisdiction under 34 C.F.R. § 300.153(b)² of the IDEA:

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

² The CDE’s state complaint investigation determines if District complied with the IDEA, and if not, whether the noncompliance results in a denial of a free appropriate public education (“FAPE”). 34 C.F.R. §§ 300.17, 300.101, 300.151-300.153.

1. District did not develop, review, and revise an Individualized Education Program (“IEP”) that was tailored to meet Student’s individualized needs from August 2024 through March 2025 because it:
 - a. Did not document Student’s present levels of academic achievement and functional performance, specifically by not considering evaluation results from April 2023, as required by 34 C.F.R. § 300.320(a)(1).
 - b. Did not consider the Student’s need for assistive technology (“AT”)—specifically related to his hearing loss—as required by 34 C.F.R. § 300.324(2)(v).
 - c. Did not include measurable annual goals to meet Student’s needs that result from his disability to enable him to be involved in and make progress in the general education curriculum, specifically in the areas of reading, writing and math, as required by 34 C.F.R. § 300.320(a)(2).
2. District did not fully implement Student’s IEP from August 2024 through March 2025 because it:
 - a. Did not make the IEP accessible to teachers or service providers responsible for its implementation, as required by 34 C.F.R. § 300.323(d).
 - b. Did not provide the direct instruction in reading listed in the IEP, specifically LANGUAGE! Live , as required by 34 C.F.R. § 300.323(c).
 - c. Did not provide the accommodations listed in Student’s IEP, specifically a copy of teacher’s notes and study guides, audiobooks, speech-to-text and text-to-speech, as required by 34 C.F.R. § 300.323(c).

FINDINGS OF FACT

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

A. Background

1. Student is 16 years old and, during the 2024-2025 school year, was in ninth grade at a District high school (“School”). *Exhibit A*, p. 33. Student is eligible for special education with a specific learning disability (“SLD”) and an other health impairment (“OHI”). *Id.* at p. 37.
2. Student loves motorcycles and wants to get into welding or become a mechanic. *Interviews with Parent, Student’s reading intervention teacher (“Reading Teacher”) and Student’s special*

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

education teacher and case manager (“Case Manager”). He has a strong sense of fairness and sometimes will stick up for his peers. Interviews with Parent and Case Manager.

3. Student struggles with reading and writing. *Interviews with Reading Teacher and Case Manager.* His handwriting is challenging to read, but he is reluctant to type or use speech-to-text. *Id.* Sitting still is a challenge, and he gets off task easily, especially when completing assignments on a computer. *Id.*

B. 2023 Evaluation

4. Student’s most recent evaluation (“2023 Evaluation”) was completed in January 2023, when Student was in middle school. *Exhibit B*, pp. 1-27. The 2023 Evaluation included a review of records and formal evaluations in the areas of general intelligence, communicative status, academic performance, social and emotional status, health and motor abilities. *Id.* at p. 2.
5. A teacher indicated that Student was distractible and impulsive and performing well below grade level in reading, writing and math. *Id.* at p. 5. Student’s reading skills were limiting his ability to access grade-level work. *Id.*
6. Some students in District are graded on a standards-based system of one through four, with one meaning the student does not meet expectations, two being partially proficient, three indicating the student is proficient and four meaning the student exceeds grade level performance indicators. *Id.* at pp. 5-6. Student was not meeting grade level standards in English, math, science or social studies. *Id.* On District’s standardized assessments offered three times per year, Student scored at the first percentile in reading and below the 12th percentile in math, with little evidence of improvement. *Id.* at p. 8.
7. Student was noted to have slight hearing loss in his left ear. *Id.* Audiology testing in 2022 indicated that Student’s “Speech Reception Threshold” was normal for both ears and normal hearing except for a decrease in hearing at 4000 Hz in the left ear. *Exhibit M.* p. 1. The only recommendation was to use ear protection for noisy activities. *Id.*
8. A school psychologist evaluated Student’s cognitive abilities and found scores consistent with a diagnosis of attention deficit hyperactivity disorder (“ADHD”). *Id.* at p. 9-11. Parent and two teachers also completed the Conners rating scales with scores that indicated a borderline to high probability of ADHD. *Id.* at pp. 18-19.
9. Scores from the Wechsler Intelligence Scale for Children in 2022 indicated average abilities in the areas of verbal comprehension, visual spatial awareness and processing speed. *Id.* at p. 11. His fluid reasoning was low average while his working memory was very low. *Id.*
10. An assessment of Student’s Oral and Written Language Scales indicated average listening comprehension, low average oral expression and average oral language composite. *Id.* at p. 12. Student was able to “understand high level grammatical structures and long, complex

sentences” but struggled to generate his own complex sentences, like “creating a sentence without using the word ‘and.’” *Id.*

11. Formal academic testing indicated that Student was performing at or below the first-grade level in reading. *Id.* at p. 12-17. Math was a relative strength, with scores at the fourth-grade level. *Id.* His overall abilities fell in the exceptionally low range. *Id.*
12. An occupational therapist noted that Student could write legibly, although his writing became less legible when he rushed. *Id.* at p. 21. His pencil grasp also made writing “more laborious.” *Id.* Student could use the text-to-speech function to have his writing read back to him. *Id.*
13. The functional behavioral profile identified two target behaviors: task avoidance and disruption. *Id.* at p. 22. No functions were identified for these behaviors. *Id.*

C. Assistive Technology Assessment

14. An assessment of Student’s need for AT for written language was completed in August 2023 (“AT Evaluation”). *Id.* at p. 28. Handwriting was difficult for Student and his “reading skills limit[ed] his ability to self-monitor his output” when typing. *Id.*
15. Student benefited from using text-to-speech on his computer or with his pen but needed “a lot of encouragement to use these tools, especially in a general education setting.” *Id.* He was more willing to use the technology in his special education classroom. *Id.*
16. Student could activate the speech-to-text tool and use word-prediction software to reduce spelling errors. *Id.* He was able to use an application to take a picture of his worksheet and complete it online. *Id.* He also knew he could do this when teachers provided paper assignments. *Id.*
17. Recommendations from the AT Evaluation included: (1) continuing to provide Student with “word prediction; speech-to-text; and text-to-speech software” for all written assignments; (2) “support and training in self-advocacy for using technology” in general and special environments; (3) consider “enforcing the use of technology and assistive technology for written” work until Student is more self-directed; (4) scheduling a “follow-up observation or training session” on AT for school staff; and (5) “invite a SWAAAC [StateWide Assistive technology Augmentative and Alternative Communication] team member to the IEP meeting.” *Id.* at p. 30.

D. 2024 IEP

18. At the start of the 2024-2025 school year, Student’s then-current IEP (“2024 IEP”) had been developed by his middle school providers across seven IEP team meetings between January 18 and April 5, 2024. *Exhibit A*, pp. 25-27.

Present Levels of Academic Achievement and Functional Performance

19. Per the 2024 IEP, Student had an SLD in the areas of “basic reading skills, reading fluency skills, reading comprehension, written expression, mathematical calculation, and mathematical problem solving.” *Exhibit A*, p. 5. The 2024 IEP does not include any results from the 2023 Evaluation. *Id.* at pp. 4-11.
20. According to the 2024 IEP, Student earned a four in computers, threes in art and English language arts (“ELA”), 2.5 in science, 2 in math and 1.5 in social studies. *Id.* His scores on state and district assessments showed Student was not meeting expectations and was reading at a first-grade level. *Id.* at pp. 5-6.
21. The 2024 IEP also included information about Student’s use of and progress in the reading curriculum, LANGUAGE! Live (“LL”), his class started using in December 2023. *Id.* at pp. 6, 8-11. In January he was engaging with both the online and classroom lessons. *Id.* at p. 6. By February, he was refusing to work on the computer portion of the program. *Id.* at p. 13.
22. Student had made progress on his prior IEP reading comprehension and fluency goals. *Id.* at pp. 7-8. Student also met his goal to “correctly read a series of 10 different words with a common vowel team at a 1st grade level with 75% accuracy,” but no other information about his decoding abilities is included in the 2024 IEP. *Id.* at pp. 6-10. He also made progress on both of his writing goals. *Id.* at p. 7. Student was refusing to work on his math and social and emotional goals. *Id.*
23. According to Student’s teachers, he was reluctant to use his iPad for assignments, even when reminded, and he often left it in his locker. *Id.* at pp. 5-8. Without the AT, Student’s classwork was generally not legible. *Id.* at p. 8. He was more likely to bring his device if motivators were provided, like candy or a teacher collecting data. *Id.* Even when he had the device, he would only use it when directed. *Id.*
24. Student had “mild hearing loss in his left ear which [wa]s being monitored.” *Id.* at p. 8, 12. Neither Parent nor any teachers raised concerns about Student’s hearing impacting him in the classroom. *Exhibit A*, pp. 25-27; *Interviews with Reading Teacher, Case Manager, District’s occupational therapist (“OT”), and District’s special education coordinator (“Coordinator”).*
25. The Student Needs and Impact of Disability statement indicated that Student required accommodations to access general education because of his specific learning disabilities in several areas. *Id.* at p. 12. He also required occupational therapy services to address his executive functioning skills and use of AT. *Id.*

Accommodations and AT

26. Parent reported concerns about Student’s lack of progress and access to a multi-sensory reading curriculum. *Exhibit A*, p. 12. She was also concerned about his “willingness to use his accommodations and technology.” *Id.* Parent asked to have a SWAAAC representative attend

the meeting and to include information from Student's AT Evaluation in the 2024 IEP. *Id.* at p. 13. The team reconvened later in March with a representative from SWAAAC and the AT Assessment was "uploaded to attachments." *Id.* During that meeting, they discussed Student's nonuse of technology and whether he understood his accommodations, which Parent believed he did. *Id.* at p. 14.

27. Student required a device "with access to word-prediction; speech-to-text; and text-to-speech software and extensions for completion of both short and long-answer" writing assignments." *Id.* at p. 15. He also needed support around self-advocacy and using technology in both the general and special education setting. *Id.* To support this, Student would "receive indirect occupational therapy services to support his use of assistive technology and executive functioning skills" for 30 minutes per quarter. *Id.* at pp. 23-24.
28. On April 1 and 5, the IEP team reviewed and updated Student's accommodations based, in part, on feedback from Parent. *Id.* at p. 14. The 2024 IEP included 14 accommodations, including: (1) "[u]se of audio books"; (2) "[u]se of assistive technology for writing assignments"; (3) "[u]se of text to speech/speech to text"; and (4) "[u]se of a calculator." *Id.* at p. 20.
29. Student also required a behavior intervention plan ("2024 BIP") because he got off task and avoided academic assignments, "especially when reading [was] required." *Exhibit A*, p. 29. The 2024 BIP included several strategies to increase his engagement and work completion. *Id.* at pp. 29-30.

Annual Goals

30. Parent requested changes to the existing academic goals as well as additional goals, across several meetings. *Id.* at pp. 25-27. Several changes were made in response to these requests. *Id.* However, Parent remains concerned that the goals are not aligned with Student's present levels. *Reply*, pp. 1, 2.
31. The 2024 IEP included three reading goals, one writing goal, two math goals and a self-determination goal. *Id.* at pp. 16-20. This included a reading comprehension goal, a reading fluency goal and a decoding goal. *Id.* at pp. 16-20. Two reading goals, the writing goal and two math goals had specific baseline data reflecting Student's then-current performance in those areas. *Id.* at pp. 16-19.

E. 2024 IEP Accessibility to Providers

32. Case Managers in District are responsible for ensuring that all providers in District are aware of their responsibilities under a student's IEP. *Interviews with Case Manager, Reading Teacher, Coordinator.*
33. On August 14, 2024, Case Manager sent all of Student's teachers an email through their internal data system with a copy of Student's IEP snapshot. *Interview with Case Manager;*

See, e.g., *Exhibit J*, p. 89; *Exhibit M*, pp. 2-3. In the message, she reminded teachers that Student would need access to technology to listen to audio. *Id.*

34. On January 13, 2025, Case Manager again emailed all of Student’s teachers a copy of his IEP snapshot. *Interview with Case Manager; Exhibit J*, p. 66. This time she advised teachers not to ask Student to read in front of the class. *Id.*

F. 2024 IEP Implementation – Reading Intervention Services

35. Student’s 2024 IEP required 200 minutes per week (“MPW”) of direct literacy instruction from a special education teacher outside of general education and 90 MPW of direct instruction in a co-taught general education class. *Exhibit A*, p. 23. The 2024 IEP does not specify what reading curriculum will be used. *Id.*
36. Parent’s concern is Student did not receive direct instruction on his goals and did not receive instruction using LL. *Complaint*, pp. 6-7.
37. LL is a multisensory reading curriculum that blends teacher directed lessons with online word training and text training lessons. *Interview with Coordinator*. The online word training teaches phonics and phonemic awareness to build decoding skills while the text training builds on the teacher’s lessons and focuses more on reading comprehension. *Id.*
38. Student’s special education ELA class used LL as the primary curriculum for the entire 2024-2025 school year, completing four units. *Interview with Reading Teacher; See, Exhibit L*. The teacher-directed lessons are accompanied by assignments in a workbook, which Student generally completed. *Interview with Reaching Teacher; Exhibit L*, pp. 1-2.
39. When he was supposed to complete the computer-based lessons, Student was almost always off task, playing games or shopping. *Interview with Reading Teacher*. She continually closed tabs on his computer through her monitoring software, but he could open new ones faster than she could close them. *Id.* Reading Teacher regularly talked with Student about completing the LL lessons, but he would just say they were boring. *Id.* Student took movement breaks to get water or go to the bathroom almost daily during classroom work time. *Id.* The reading class is small, and Student was generally willing to ask for help as needed, like having Reading Teacher read passages out loud for him. *Id.* Reading Teacher also quietly redirected Student when he was off-task or thanked him for working. *Id.*
40. Student spent two hours completing a word training lesson during the 2024-2025 school year. *Compare, Exhibit 2*, p. 16 and *Exhibit M*, p. 14. He did not complete any other word training lessons last year. *Id.* However, he started a new lesson this fall. *Exhibit M*, p. 14. Student also completed several text training assignments during the 2024-2025 school year, although he did not complete any between September 18, 2024 and February 27, 2025. *Id.* at pp. 13-15. Even though the rest of the class was using them, Student would not use the school provided

headphones, so he could not listen to the videos that accompanied the online lessons. *Interview with Reading Teacher.*

41. Because Student was enrolled in, and attended, a special education reading class and a co-taught ELA class, the CDE finds that District implemented Student's direct instruction, from August 2024 through March 2025, as required by his 2024 IEP.

G. 2024 IEP Implementation - Accommodations

Copy of Teachers' Notes and Study Guides

42. Student's 2024 IEP required that Student receive a "[c]opy of teacher's notes and study guides." *Exhibit A*, p. 20.
43. Copies of teacher's notes generally means that teachers provide a copy of the notes which students can highlight during the lesson so they can focus on listening without dividing their attention to write. *Interviews with Coordinator, District's special education compliance consultant ("Consultant") and Case Manager.* Sometimes teachers provide fill-in-the-blank notes to guide students to the information. *Id.* Sometimes these come with the curriculum, other times they are created by the classroom teacher or a special education teacher. *Interview with Consultant.* Study guides are a summary of the material compiled before an exam, focusing on the material that will be tested. *Interviews with Coordinator, Consultant and Case Manager.*
44. Student's reading class did not involve any notes; the only thing they did on the board was practice problems from the worksheets. *Interview with Reading Teacher.* They also did not have comprehensive tests, so there were no study guides either. *Id.*
45. In December 2024, Parent contacted one of Student's elective teachers about whether he was getting copies of her notes because Student said he was not receiving them. *Exhibit M*, p. 4. The teacher responded that classroom notes were posted in Google classroom and that his low grade was related to incomplete assignments, as he generally passed the assignments he completed. *Id.*
46. In March 2025, for an IEP team meeting, Case Manager asked Student's teachers about his accommodation use in their classes. *Exhibit M*, pp. 10-11. In place of classroom notes, Student's math class used fill-in-the-blank class warmups, and they had practice tests to use as study guides. *Id.* at p. 12.
47. In Student's social studies class, all the notes were fill-in-the-blank slides which were also posted to the google classroom. *Id.* at p. 10. Student did well with these notes. *Id.*
48. Student's general education ELA teacher provided teacher's notes and study guides online. *Id.* at p. 6. As the co-teacher in that class, Case Manager ensured Student had those. *Interview with Case Manager.*

49. Case Manager also prepared with student before tests and knows he was getting study guides. *Id.* Examples of study guides provided to Student were also reviewed in preparation for responding to this Complaint. *Interview with Coordinator.*

50. Based on these findings, the CDE finds that District made this accommodation available to Student consistent with the 2024 IEP from August through March 2025.

Audiobooks

51. Student's 2024 IEP required "[u]se of audio books." *Exhibit A*, p. 20. His IEP did not permit the use of personal electronic devices. *Id.* at pp. 15, 20. Parent's concern is that Student could not access these accommodations because District would not allow him to use his personal wireless headphones. *Interview with Parent.*

52. For high school students, District Board Policy JICJ prohibits the use of personal electronic devices including cellphones and wireless headphones during "the entire period of a scheduled class." *Exhibit 1*, p. 1. Exceptions to this policy include when authorized by a student's IEP. *Id.* at p. 2. When students use wireless headphones, teachers cannot tell if the student is listening to an assignment on their computer, as expected, or connecting to their personal phone. *Interviews with Reading Teacher and Coordinator.*

53. Reading Teacher had a bucket of headphones in her classroom for student use. *Interview with Reading Teacher.* Students could also use headphones from the bucket in their other classes. *Id.* However, Student refused to use the school provided headphones, even when the other students in his reading class used them. *Id.* However, most of the time Reading Teacher read aloud instead of having the students listen to audiobooks. *Id.* When there were audiobooks online, Student usually just asked Reading Teacher to read it to him, which she did. *Id.*

54. Audiobooks were also available in Student's general education ELA class. *Interview with Case Manager; Exhibit M*, p. 7. Sometimes Student would go across the hall to listen in a conference room because he was unwilling to wear the school provided headphones. *Interview with Case Manager.*

55. Based on these findings, the CDE finds that District made this accommodation available to Student consistent with the 2024 IEP from August through March 2025.

Text to speech/speech to text

56. Student's 2024 IEP required "[u]se of text to speech/speech to text." *Exhibit A*, p. 20.

57. Student consistently had access to text-to-speech and speech-to-text on his Chromebook. *Interviews with Case Manager and Reading Teacher; Exhibit M*, pp. 7, 10. Student also has access to text-to-speech software including Google Read and Write, which could read any assignment to him, including scanning and reading paper-based worksheets. *Interviews with Case Manager and OT.* However, he consistently refused to use it. *Interviews with Case*

Manager and Reading Teacher; Exhibit M, pp. 7, 10. Student would handwrite responses, even when other students were using AT. *Interview with Reading Teacher*.

58. Student is very technologically savvy and could easily navigate the programs. *Interviews with Case Manager and OT*. In the spring, OT spent several weeks working with Student to show him even more about how to use more features in Google Read and Write. *Interview with OT*. While he knew how to use the program during their sessions, he told OT afterwards that he would not use it in class. *Id.*
59. Based on these findings, the CDE finds that District made this accommodation available to Student consistent with the 2024 IEP from August through March 2025.

H. Progress on 2024 IEP Goals

60. Historically, case managers at School were tasked with progress monitoring even for goals they were not themselves working on. *Interview with Coordinator; Mesa County Valley School District 51*, 125 LRP 15693 (SEA CO 4/8/25) (finding that District improperly measured progress at School systemically). This resulted in miscommunications and progress that was not reported consistently with the methods stated in IEPs. *Id.* District has since reformed this process and progress monitoring is done by the special education teacher implementing the goals. *Id.*; *See*, e.g. *Exhibit G*, pp. 1-5. However, Student's 2024 progress report was created before this change. *Interview with Coordinator; Exhibit G*, pp. 6-11.
61. Student's first reading goal was to be able to independently answer comprehension questions about a fourth-grade level text with 70% accuracy, from a baseline of 73% accuracy on third-grade level texts. *Exhibit A*, p. 17. Several probes were completed between September and December 2024, but no reading levels were reported. *Exhibit G*, p. 6. As of April 2025, Student accurately answered 56% of questions about a fourth-grade level text. *Id.* This indicated progress, as Student answered 40% of questions accurately on a fourth-grade level text in May 2024. *Id.*
62. His second reading goal was to increase his fluency to 55 words per minute ("WPM") on a third-grade level text from a baseline of 40 WPM. *Exhibit A*, p. 17. Student's progress on this goal fluctuated throughout the year, with scores reverting to 33 or 25 WPM after briefly increasing to 70 WPM on third-grade level texts. *Exhibit G*, p. 7. His most recent score according to the IEP developed in the spring of 2025 ("2025 IEP") was 40 WPM. *Id.* at p. 8. Student's scores generally fluctuated depending on his effort. *Interview with Reading Teacher*.
63. His decoding goal was to be able to independently read an open syllable in 4/5 trials. *Exhibit A*, p. 18. There was no baseline for this new goal. *Id.* Because of the issues with progress monitoring, Student's progress on this goal was not accurately reported. *Interview with Reading Teacher; Exhibit G*, p. 8; *See*, FF # 60. However, according to the 2025 IEP, Student met the goal, reading 8/10 words on his most recent trial. *Exhibit A*, p. 40.

64. Student's writing goal was to write or type a claim and evidence "for a text that he reads and/or is read to him with sentences that have proper grammar, capitalization, and punctuation" in three out of four trials, from a baseline of "1-16 he didn't know what claim/evidence was and therefore couldn't write these." *Exhibit A*, p. 18. Student made insufficient progress on this goal, needing to clarify "the purpose of a claim and how claims work in writing" and work on adding punctuation. *Exhibit G*, p. 9. Per the 2025 IEP, Student wrote a claim with evidence in 2/5 writing samples and used "correct grammar, capitalization and punctuation 50% of the time." *Exhibit A*, p. 40.
65. His first math goal was to solve eight fifth-grade level "multi-step problems involving addition, subtraction, multiplication, and division," with 90% accuracy, from a baseline of 55%. *Exhibit A*, p. 18-19. The progress data on this goal is based on Student's performance in his math class and is not directly tied to the methods described in the goal. *Exhibit G*, p. 9. However, in the 2025 IEP, Student was solving fifth-grade level calculation problems with 70% accuracy. *Exhibit A*, p. 40.
66. His second math goal was to solve "8 multistep word problems posed with whole numbers and have whole-number answers including problems in which remainders must be interpreted, with 80% at a 5th grade level" from a baseline of 50% accuracy. *Exhibit A*, p. 19. The progress data on this goal is based on Student's performance in his math class and is not directly tied to the methods described in the goal. *Exhibit G*, p. 10. Per the 2025 IEP, Student was answering multi-step word problems with 68% accuracy. *Exhibit A*, p. 40.
67. His self-determination goal was to use self-advocacy to "advocate to get teacher notes and study guides, ask for extra time with teachers" 70% of the time from a baseline of 0 on this new goal. *Exhibit A*, p. 19. Student was monitoring his grades and assignments, but was generally unwilling to ask for help, with some exceptions. *Exhibit G*, pp. 10-11. In the 2025 IEP, the co-teachers in Student's classes reported that he asked for help 25% of the time. *Exhibit A*, p. 40.

I. 2025 IEP

IEP Development Process

68. The 2025 IEP was developed across five meetings between January 15 and March 10, 2025. *Exhibit A*, pp. 53-62. As a result of the previous progress monitoring methods, the IEP team initially lacked some data when it first convened in January 2025. *Interview with Coordinator*; See, FF # 60. However, after further collaboration between Case Manager and Student's other special education teachers, the IEP team had baseline data at later meetings. *Exhibit A*, p. 40; *Interview with Coordinator*.
69. The last IEP team meeting was March 10, 2025. *Exhibit A*, p. 62. Case Manager sent Parent a draft of the final IEP on March 31, 2025 and followed up on April 16. *Exhibit J*, p. 7. Parent did

not respond. *Id.* Case Manager finalized the IEP and sent it out to teachers just before finals in May. *Interview with Case Manager.*

Present Levels of Academic Achievement and Functional Performance

70. The 2025 IEP reviewed the results of the 2023 Evaluation. *Id.* at pp. 37-38. This included reviewing his areas of eligibility and summarizing his performance across several domains, general intelligence, communication, academic performance, social and emotional status, health and motor abilities. *Id.*
71. During the first semester, Student earned an A in math, Bs in reading, study skills and team sports, Cs in world studies and biology and Ds in law related ed and composition and literature. *Id.* at p. 38.
72. The Student Needs statement indicated that Student required specialized instruction in reading, writing and math to access the general education curriculum because of his SLD and specialized instruction in self-determination skills because of his OHI. *Id.* at p. 42. Student also required accommodations and AT to access the curriculum. *Id.*

Assistive Technology

73. During a meeting on February 28, 2025, the IEP team discussed Student's use of AT. *Exhibit A*, p. 53. It considered allowing him to use his phone, iPad or AirPods as an accommodation, but determined that all relevant functions were accessible with a Chromebook and wired headphones. *Id.*
74. Parent did not raise any concerns about Student's hearing loss. *Interviews with Case Manager, Coordinator and Consultant.* Student would prefer to use his AirPods because they are more discreet and can be worn in only one ear, allowing him to continue hearing what is happening in the classroom. *Interview with Parent.* Parent wanted him to get used to using AT in the way that works best for him. *Id.*
75. As Student was not using all the features of the available AT, the IEP Team agreed to replace 30 minutes per quarter of indirect occupational therapy with direct services to train him on those features. *Id.* Specifically, OT would provide 30 MPW of training for five weeks, followed by 20 minutes per month until the end of the 2024-2025 school year. *Id.* No occupational therapy services would be provided in the 2025-2026 school year. *Id.*
76. Student continued to require "access to a word-processing device with access to word-prediction; speech-to-text; and text-to-speech software," with support and training in using the technology. *Exhibit A*, p. 43. The 2025 IEP included 18 accommodations. *Id.* at pp. 48-49. The 2025 IEP did not include use of personal electronic devices. *Id.* at pp. 43-49.

Annual Goals

77. The 2025 IEP included three reading goals, two writing goals, one math goal and a self-determination goal. *Id.* at pp. 45-48. Progress would be reported quarterly. *Id.* at p. 45.
78. Student's first reading goal was to answer 80% of comprehension questions accurately on a fifth-grade level text, from a baseline of 60% accuracy on a fourth-grade level text. *Id.* This baseline reflected Student's progress on his prior comprehension goal. *Id.* at p. 39. Student continued to get about 60% correct on fourth-grade level probes through the end of the year. *Exhibit G*, p. 1. However, he would continue to work on this, and the other goals, until his next annual IEP team meeting. *Id.*
79. His reading fluency goal remained increasing his fluency from 40 WPM on a third-grade level text. *Exhibit A*, p. 46. This was consistent with his most recent progress monitoring report. *Id.* at p. 39. However, his progress on this goal fluctuated throughout the prior year, with several higher scores recorded. *Exhibit G*, p. 7. The IEP team decided to keep this same goal with a higher target (75 WPM) because of this inconsistency. *Interview with Coordinator*. By the end of the year, Student averaged about 55 WPM on third-grade level probes. *Exhibit G*, p. 2.
80. His decoding goal was to "increase his reading of single syllable and multi-syllable words including using letter combinations" 75% of the time, with no baseline for this new goal. *Exhibit A*, p. 46. On May 2, less than two months after the IEP was finalized, Student had met this goal in three out of four probes. *Exhibit G*, p. 2.
81. His first writing goal was to use correct punctuation and capitalization 70% of the time when communicating with team members, from a baseline of 50%. *Exhibit A*, p. 47. This was consistent with the final progress report on his prior goal. *Id.* at p. 40. However, Student had met this goal by the end of the year. *Exhibit G*, p. 3.
82. His second writing goal was to "increase his use of complex sentences with one coordinating conjunction to writing by combining two simple sentences into a complex sentence using 4/7 conjunctions in 70% of opportunities." *Exhibit A*, p. 48. From a baseline of 1/7 conjunctions used. *Id.* This was consistent with his abilities identified in the 2023 Evaluation. *See*, FF # 10 Student made progress on this goal and was using three coordinating conjunctions by the end of the year. *Exhibit G*, p. 5.
83. His math goal was to move from the 27th percentile at the fifth-grade level to the 40th percentile at the sixth-grade level on nationally normed math assessments. *Exhibit A*, p. 47. Initial probes throughout the remainder of the school year showed that Student had met this goal and was scoring 85-100% on sixth-grade level probes, suggesting the need to change this goal. *Exhibit G*, p. 4.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District developed IEPs that were tailored to meet Student’s individualized needs from August 2024 to March 2025, as required by 34 C.F.R. §§ 300.320(a)(1)-(2) and 300.324(2)(v). District complied with the IDEA.

The IDEA requires a school to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999 (2017). An analysis of the adequacy of an IEP begins with the two-prong standard established by the United States Supreme Court in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The first prong determines whether the IEP development process complied with the IDEA’s procedures; the second prong considers whether the IEP was reasonably calculated to enable the child to receive an educational benefit. *Id.* at 207. If 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.

A. Development of the 2024 IEP

The 2024 IEP was developed more than one year before the Complaint was filed. (FF # 18.) Thus, the CDE will not consider the propriety of the IEP development process. 34 C.F.R. § 300.153(c); *CDE State-Level Complaint Procedures*, ¶ C(2)(c). However, the CDE still has authority to consider the propriety of the IEP itself. An IEP that does not comply with the requirements of the IDEA remains noncompliant each day that a school district implements the IEP, allowing the one-year time limitation to begin as late as the final day that IEP is in effect. *Weld County Sch. Dist. 6*, 81 IDELR 239 (CO SEA April 24, 2022). Thus, the CDE presumes the IEP development process was procedurally appropriate and turns directly to consider the second prong of whether the 2024 IEP was substantively adequate. *Rowley*, 458 U.S. at 207.

B. Substantive Adequacy of the 2024 IEP

Present Levels of Academic Achievement and Functional Performance

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)(1). An IEP must include a statement of the student’s present levels of academic achievement and functional performance, including a statement explaining how the child’s disability impacts the student’s involvement and progress in the general education curriculum. *Id.* § 300.320(a)(1). Developing appropriately ambitious goals depends on first gathering and understanding the student’s current performance, including prior rates of progress and information provided by the parents. *Questions and Answers on Endrew F. v. Douglas County School District. Re-1*, 71 IDELR 68 (EDU 2017).

In this case, the 2024 IEP did not include any information from Student’s 2023 Evaluation. (FF # 19.) However, not including it in the present levels statement does not mean the IEP team did not consider the prior evaluation and testing. The IEP team maintained goals in all academic

areas, consistent with his performance well below grade level in reading, writing and math. (FF #s 5, 11, 31.) This included reading comprehension, fluency and decoding goals. (FF #s 5, 31.) The 2024 IEP also included the 2024 BIP with several strategies to address Student’s difficulties with attention and work completion. (FF #s 5, 13, 29.) Finally, while the present levels do not include the AT Evaluation, the IEP team considered the evaluation and included a SWAAC representative at a meeting in March. (FF # 26.) Recommendations from the AT evaluation, including access to technology for written work, including word prediction and speech-to-text/text-to-speech software and support and training to use the technology were included in the 2024 IEP. (FF # 17, 27, 28.)

While best practice might require including more information from prior evaluations, IDEA requires a statement of Student’s current performance and an explanation of how the student’s disability impacts his involvement and progress in the general education curriculum. 34 C.F.R. § 300.320(a)(1). Here, the 2024 IEP included a statement of his current performance, reviewing his grades, feedback from teachers and his progress on prior goals. (FF #s 19-25.) It also included a statement of how Student’s disability impacted his ability to participate in and make progress in the general education curriculum, noting struggles with all academic areas as well as executive functioning and using AT. (FF # 25.) Thus, the CDE finds and concludes that the 2024 IEP included Student’s present levels, as required by 34 C.F.R. § 300.320(a)(1).

Assistive Technology

In developing an IEP, the IEP team must consider whether the student “needs assistive technology devices and services.” 34 C.F.R. § 300.324(a)(2)(v). Any AT devices that are necessary for the student to receive a FAPE must be included in their IEP. *Letter to Anonymous*, 18 IDELR 627 (OSEP 1991). However, the student’s needs in this respect can be described in sections other than the “assistive technology” portion of the IEP. *See District of Columbia Pub. Schs.*, 120 LRP 22532 (SEA DC 06/21/20) (finding that a district sufficiently described a student’s need for a laptop for writing assignments in the “other aides and services” section of his IEP).

Here, Parent’s concern is that District did not consider Student’s mild hearing loss when considering AT. (FF #s 26-29.) The 2024 IEP noted that Student had mild hearing loss that was “being monitored.” (FF # 24.) Prior audiology testing completed by District indicated that Student had a normal “Speech Response Threshold” in both ears with a loss of hearing at 4000 Hz in one ear. (FF # 7.) The only recommendation was to use ear protection for noisy activities. (*Id.*) Parent did not raise any concerns about Student’s hearing impacting him in the classroom. (FF # 24.) Nothing in the Record suggests that Student’s hearing loss was impacting his access to education, or that he required AT to address this loss. Thus, the CDE finds and concludes that District considered Student’s individual needs in determining he did not require AT to address his hearing loss, consistent with the requirements of 34 C.F.R. § 300.324(2)(v).

Measurable Annual Goals

Parent's concern is that Student's academic goals were not designed to meet his academic deficits. (FF # 30.)

An IEP must include measurable goals designed to “[m]eet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum” and any other educational needs that result from the child’s disability. 34 C.F.R. § 300.320(a)(2). To allow for the evaluation of a student’s progress, IEP goals must be clear and objectively measurable. *Kuszewski v. Chippewa Valley Schs.*, 34 IDELR 59 (E.D. Mich. 2001), *aff’d*, 38 IDELR 63 (6th Cir. 2003, *unpublished*). Annual goals should be clear enough that a stranger, or person unfamiliar with the IEP, would be able to implement the goal, monitor student’s progress on the goal and determine whether that progress was satisfactory. *Mason City Cmty. Sch. Dist.*, 46 IDELR 148 (SEA IA 2006).

Here, Student has a SLD in six areas and goals in all six areas. (FF #s 19, 31, 61-66.) Five of those goals—two reading goals, the writing goal, and both math goals—had specific baseline data indicating his present levels. (FF #s 31, 61-67.) All six goals were clear and specified how they would be measured. (FF #s 61-67.) As such, the CDE finds and concludes that the 2024 IEP’s goals were designed to meet Student’s needs and allow him to make progress in the general education curriculum, as required by 34 C.F.R. § 300.320(a)(2). Thus, the 2024 IEP was reasonably calculated to allow Student to receive an educational benefit. *Rowley*, 458 U.S. at p. 207.

C. Development of the 2025 IEP

In this case, Parent did not raise any concerns about the development process for the 2025 IEP. Thus, the CDE presumes the IEP development process was procedurally appropriate and turns directly to consider the second prong of whether the 2025 IEP was substantively adequate. *Rowley*, 458 U.S. at 207.

D. Substantive Adequacy of the 2025 IEP

Present Levels of Academic Achievement and Functional Performance

Here, the 2025 IEP included a statement of his current performance, reviewing the 2023 Evaluation, his grades, and his progress on prior goals. (FF #s 62-67, 70-72.) It also included a statement of how Student’s disability impacted his ability to participate in and make progress in the general education curriculum, noting struggles with reading, writing and math and a need for AT. (FF # 72.) Thus, the CDE finds and concludes that the 2024 IEP included Student’s present levels, as required by 34 C.F.R. § 300.320(a)(1).

Assistive Technology

Parent’s concern is that the 2025 IEP did not permit Student to use his personal headphones to access his AT. (FF # 74.)

Again, in developing an IEP, the IEP team must consider whether the student “needs assistive technology devices and services.” 34 C.F.R. § 300.324(a)(2)(v). If a student refuses to utilize the AT device offered by the district, the district must continue to offer the device and document their attempts to implement the students IEP. *C.B. v. Pittsford Cent. Sch. Dist.*, 54 IDELR 149 (W.D.N.Y. 2010) (ruling that a New York district offered FAPE to a ninth-grader with deficits in written expression even though the student chose not to consistently use his word processor); *See, also, Akron Pub. Schs.*, 73 IDELR 85 (SEA OH 2018). However, the district must reconvene the IEP team as soon as possible if the student continues to consistently reject the AT device. *See, e.g. See Evansville Vanderburgh Sch. Corp.*, 75 IDELR 231 (SEA IN 2019) (finding that a district should have revised a student’s IEP to change the AT services or add alternative accommodations when he refused to use his AT).

Here, Student consistently refused to use electronic devices for typing and District-provided headphones to access audiobooks and speech-to-text. (FF #s 15, 23, 39, 53, 54, 57, 58.) District has a board policy which prohibits the use of personal electronic devices unless authorized by a student’s IEP. (FF # 52.) Parent wanted the 2025 IEP to permit Student to use his personal devices, including AirPod headphones, to access AT, as an exception to the policy. (FF #s 51, 74.) Student does not like the School headphones, but Parent did not offer any special education related reasons why Student could not use the wired headphones. (FF # 74.) The IEP team considered this request but determined that Student could access all relevant functions using a Chromebook and school-provided wired headphones. (FF # 73.) In light of Student’s refusal to use AT, the IEP team added direct services with OT to train Student on how to use the programs. (FF # 75.) As there was no reason that Student required AirPods, as opposed to wired headphones, to access a FAPE and District adjusted Student’s services to address his refusal, the CDE finds and concludes that District considered Student’s needs in determining that he did not require access to personal devices, consistent with the requirements of 34 C.F.R. § 300.324(2)(v).

Measurable Annual Goals

Here, Student again had reading, writing and math goals consistent with his SLD in all three areas. (FF #s 19, 77-83.) All six goals were clear and objectively measurable. (FF #s 78- 83.) Thus, the CDE finds and concludes that the 2025 IEP’s annual goals were designed to meet Student’s needs and allow him to make progress in the general education curriculum, as required by 34 C.F.R. § 300.320(a)(2). Thus, the 2025 IEP was reasonably calculated to allow Student to receive an educational benefit. *Rowley*, 458 U.S. at p. 207.

Conclusion to Allegation No. 2: District implemented Student’s 2024 IEP, from August 2024 through March 2025, as required by 34 C.F.R. § 300.323(c). District complied with the IDEA.

A. IEP Implementation: Legal Requirements

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17; ECEA Rule 2.19. The IEP is “the centerpiece of the statute’s education delivery system for disabled children

. . . [and] the means by which special education and related services are ‘tailored to the unique needs’ of a particular child.” *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). A student’s IEP must be implemented in its entirety. 34 C.F.R. § 300.323(c)(2).

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

B. IEP Implementation: Accessibility of and Responsibilities for Student’s IEP

Here, Case Manager shared Student’s 2024 IEP snapshot with his teachers at the start of the 2024-2025 school year and again at the start of second semester. (FF #s 33, 34.) His teachers also showed an awareness of his accommodations when asked about which accommodations he was using in class. (FF #s 45-48.) Thus, the CDE finds and concludes that Student’s providers had access to and understood their specific responsibilities for implementing Student’s 2024 IEP from August 2024 to March 2025, as required by 34 C.F.R. § 300.323(d).

C. IEP Implementation: Specialized Instruction – Literacy

Here, Student’s 2024 IEP required 200 MPW of direct literacy instruction outside of general education and 90 MPW in a co-taught ELA class. (FF # 35.) Student was enrolled in both a special education ELA class and a co-taught ELA class, consistent with the requirements of the 2024 IEP. (FF #s 38, 48.) Further, although the IDEA does not promise a particular educational or functional outcome for a student with a disability, Student also made progress—although inconsistent at times— with these services on all three reading goals during the 2024-2025 school year. *Andrew*, 137 S. Ct. at 998; (FF #s 61-63). Thus, the CDE finds and concludes that District implemented Student’s literacy instruction, as required by 34 C.F.R. § 300.323(c).

To the extent that Parent’s concern was that Student was not using the LL curriculum, the CDE finds first that the 2024 IEP did not require any certain curriculum. (FF #s 35, 36.) The IDEA requires an IEP to include a “statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to a child.” 34 C.F.R. § 300.320(a)(4). An IEP is not required to identify a specific curriculum or methodology for instruction. *Id.*; *See, e.g., Douglas County School District RE-1*, 79 IDELR 117 (SEA CO 5/17/21); *Denver Public Schools*, 121 LRP 43008 (SEA CO 11/19/21); *Adams County School District 14J*, 124 LRP 16298 (SEA CO 5/7/24); *Gunnison Watershed School District RE-1J*, 125 LRP 13687, (SEA CO 3/4/25). In any event, although not required by his IEP, Student’s ELA class was using LL. (FF # 38.)

D. IEP Implementation: Accommodations

This case concerns the implementation of three accommodations: (1) “[c]opy of teacher’s notes and study guides”; (2) “[u]se of audiobooks”; and (3) “[u]se of text to speech/speech to text.” (FF #s 42, 51, 56.) To the extent Parent’s concern is that Student was not using these accommodations without access to his personal devices, Student did not require use of his personal devices to receive a FAPE. District’s obligation was to continue making the AT available to Student and consider changes to the IEP if he continued to refuse to use it. *See, e.g., C.B. v. Pittsford Cent. Sch. Dist.*, 54 IDELR 149 (W.D.N.Y. 2010) and *Evansville Vanderburgh Sch. Corp.*, 75 IDELR 231 (SEA IN 2019). District continued to offer the accommodations throughout the 2024-2025 school year and adjusted Student’s occupational therapy services in the 2025 IEP in response to this refusal. (FF #s 51-58, 75.) Thus, the CDE finds and concludes that, from August 2024 through March 2025, District made these accommodations available to Student, consistent with Student’s 2024 IEP and the requirements of 34 C.F.R. § 300.323(c). (FF #s 42-59.)

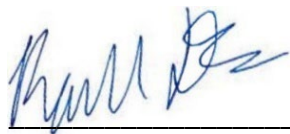
REMEDIES

The CDE concludes that District complied with the requirements of the IDEA. Accordingly, no remedies are ordered.

CONCLUSION

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

Dated this 17th day of October, 2025.



Rachel Dore
Senior State Complaints Officer

APPENDIX

Complaint, pages 1-17

Response, pages 1-12

- Exhibit A: IEPs
- Exhibit B: Evaluations
- Exhibit C: Service Logs
- Exhibit D: None
- Exhibit E: Notices of Meeting
- Exhibit F: Schedule
- Exhibit G: Progress Reports
- Exhibit H: District Calendar
- Exhibit I: District Policies and Procedures
- Exhibit J: Correspondence
- Exhibit K: None
- Exhibit L: Classroom Materials
- Exhibit M: Supplementary Materials

Reply, pages 1-4

- Exhibit 1: Laws and Policies
- Exhibit 2: Correspondence
- Exhibit 3: LL Description
- Exhibit 4: Meeting Notes
- Exhibit 5: Progress Reports
- Exhibit 6: Proposed Remedy

Telephone Interviews

- Parent and Advocate: September 22, 2025
- Reading Teacher: September 22, 2025
- Case Manager: September 22, 2025
- OT: September 29, 2025
- Coordinator: September 29, 2025
- Consultant: September 29, 2025