

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

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**State Complaint SC2025-607**  
**Pueblo County School District 70**

**DECISION**

**INTRODUCTION**

On September 15, 2025, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> filed a state complaint (“Complaint”) against Pueblo County School District 70 (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified one allegation subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

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

**RELEVANT TIME PERIOD**

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after September 15, 2024. Information prior to September 15, 2024 may be considered to fully investigate all allegations.

**SUMMARY OF COMPLAINT ALLEGATIONS**

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

1. District did not fully implement Student’s Individualized Education Program (“IEP”) on September 26, 2024, because it:

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

<sup>2</sup> The CDE’s state complaint investigation determines if 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.

- 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); and
- b. Did not provide the adult supervision or accommodations related to safety and supervision listed in the IEP to prevent elopement behavior, as required by 34 C.F.R. § 300.323(c).

### **FINDINGS OF FACT**

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

#### **A. Background**

1. Student is six years old and began the 2024-2025 school year attending a District school (“School”) in the Significant Support Needs (“SSN”) Kindergarten classroom. *Complaint*, p. 1; *Response*, p. 2; *Exhibit A*, p. 18. She qualifies for special education under the disability category of Autism Spectrum Disorder. *Exhibit A*, p. 1.
2. Student is “animated,” “super funny,” “sweet and very loving,” “social,” and “loves music.” *Interview with Parent; Exhibit A*, p. 1; *Interview with District’s Director of Special Education (“Director”)*. Student struggles with safety awareness and elopement. *Complaint*, p. 1.
3. This investigation involves implementation of an IEP dated April 30, 2024 (the “IEP”) during an elopement incident on September 26, 2024. *Exhibit A*, pp. 1-23.

#### **B. District’s Policies, Practices, and Procedures**

4. Director described District’s responsibilities under the IDEA, stating an IEP team develops IEPs based on individual child data, and that it is ultimately her duty to ensure teachers implement each IEP with fidelity. *Interview with Director*.
5. At the beginning of each school year, special education teachers will meet to review their caseloads, the IEPs they implement, and create service plans. *Id.* The special education teachers provide general education teachers, paraprofessionals, and other service providers with a snapshot of the IEP. *Id.* A copy of this snapshot lives in Enrich, an online system. *Id.* Physical copies of IEPs are also kept in a locked file for service providers to review. *Id.*
6. District also provides compliance training for special education teachers and specialists at the start of each year. *Id.* This training could be on “hot topics” in special education, or any new changes or procedures related to state law. *Id.* District also requires a full day training for paraprofessionals. *Id.* Generally, District has separate training courses for new

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

paraprofessional staff. *Id.* Director and coordinators are always available to answer staff questions related to complying with the IDEA. *Id.*

7. Additionally, District has a special education guidebook. *Id.* This provides an all-encompassing explanation of special education procedures and information to ensure IDEA compliance. *Id.* District also created a paraprofessional guidebook for the 2025-2026 school year to explain paraprofessional roles and responsibilities in special education. *Id.*
8. In terms of service provision, case managers ensure implementation of IEP accommodations. *Id.* Coordinators and Director work with case managers, as well as visit classrooms themselves, to ensure accommodations are being implemented. *Id.* Paraprofessionals may be responsible for providing accommodations within the classroom. *Id.*

### C. The IEP

9. The IEP was developed at an annual review meeting on April 30, 2024. *Exhibit A*, p. 1; *Exhibit C*, p. 1.
10. The IEP describes Student's present levels of academic achievement and functional performance, noting that behavior "concerns include elopement." *Exhibit A*, pp. 3-4. Student benefits from "maximum adult support in general education" and she "participates only when prompted by a paraprofessional." *Id.* at p. 4. By the end of preschool year, Student was not running from "the playground as much as before." *Id.*
11. The IEP describes the impact of Student's disability on her involvement in the general education curriculum, noting it impacts her ability to attend to academic activities, learn new skills, demonstrate her knowledge, and interact with peers. *Id.* at p. 8. Student requires "significant adult supervision to safety monitor behaviors such as climbing furniture, eloping, and engaging in other unsafe behaviors." *Id.* The IEP notes that Student does not exhibit behavior that requires a behavior intervention plan. *Id.*
12. The IEP includes a parent input section, which captures Parent's concerns with "elopement, meltdowns (including physical aggression and self harm)." *Id.* at p. 9
13. The IEP's Consideration of Special Factors section notes that "Student does not demonstrate awareness of safety rules and will present as nonverbal to novel adults." *Id.* at p. 10. It adds that she "might run from adults if not supervised. She requires constant adult supervision as well as hand to hand transportation at home and at school due to safety concerns" *Id.*
14. The IEP includes six annual goals in communication, language, social/emotional wellness, self-determination, and reading. *Id.* at pp. 10-15.
15. The IEP includes sixteen accommodations. *Id.* at p. 15. Relevant to this investigation, Student "requires significant adult supervision to safety monitor behaviors such as climbing furniture, eloping, and engaging in other unsafe behaviors." *Id.*

16. The IEP describes the special education and related services for Student, including 90 minutes per month of direct support outside the general education classroom for Speech/Language Therapy, 655 minutes per week of direct support outside the general education classroom provided by an Early Childhood Special Education (“ECSE”) in the SSN classroom, focused on preacademic skills, communication, social/emotional/behavior skills, and adaptive skills, and 40 minutes per week of direct support inside the general education classroom, provided by the ECSE and/or an Exceptional Student Services paraprofessional during targeted opportunities such as center play, small group, recess, and other activities. *Id.* at pp. 18 - 19.
17. The IEP provides Student’s least restrictive environment as 6.2% in the general education environment. *Id.* at p. 21.

#### **D. IEP Accessibility and Responsibilities**

18. Student’s case manager (“Case Manager”) received a copy of the IEP at the beginning of the 2024-2025 school year. *Interview with Case Manager.* Before the school year began, she met with the paraprofessionals who would work with Student and shared a snapshot of the IEP with them. *Id.*
19. The snapshot describes Student’s accommodations (including that Student requires “significant adult supervision”), service delivery statement, and goals. *Exhibit F*, pp. 1-8. The snapshot was uploaded to Enrich, and both the full IEP and the snapshot were placed into a physical file for service providers to access consistently with District practice. *Interviews with Case Manager and Director.* Additionally, the snapshot was placed in a folder for Student within the SSN classroom for staff to access each time they worked with Student. *Interviews with Student’s paraprofessionals (“Paraprofessional 1,” “Paraprofessional 2,” and “Paraprofessional 3”).*
20. Case Manager recalled that Student generally needed one to one supervision. *Interview with Case Manager.* Paraprofessional 1 and Paraprofessional 2 were aware that Student needed significant supervision due to elopement behaviors. *Interviews with Paraprofessional 1 and Paraprofessional 2.*

#### **E. IEP Implementation: September 26, 2024**

21. Parent’s concern is that Student did not receive significant adult supervision on September 26, 2024, when she eloped from School’s playground during recess. *Interview with Parent.*
22. The IEP requires “significant adult supervision to safety monitor behaviors such as climbing furniture, eloping, and engaging in other unsafe behaviors.” *Exhibit A*, p. 8. District interpreted this to always mean “eyes on” Student and often one-to-one supervision. *Interviews with Director and Case Manager.*
23. On September 26, Student attended recess with three peers. *Response*, p. 3. Case Manager and three paraprofessionals supervised the four children. *Id.; Interview with Case Manager.*

Paraprofessional 1 was assigned specifically to Student. *Interviews with Case Manager and Paraprofessional 1*. Paraprofessional 2, Paraprofessional 3, and Case Manager were each assigned to a specific student of their own. *Interviews with Case Manager, Paraprofessional 1, and Paraprofessional 2*.

24. Recess took place at a playground enclosed by a chain-link fence with three gates located on the north, south, and east sides. *Response*, p. 3. Generally, one staff member is assigned to each gate. *Interview with Case Manager*. Paraprofessional 2 recalls being told they had to watch the gate as a couple of the students were known for eloping. *Interview with Paraprofessional 2*. Playground equipment is situated at the center of the enclosure. *Exhibit N*. The four children were playing on the equipment. *Interviews with Case Manager and Paraprofessional 1*. The three paraprofessionals and Case Manager observed them from one corner of the playground, in an area with limited visibility of the gate on the east side of the playground. *Exhibit N; Interviews with Case Manager and Paraprofessional 1*.
25. Video footage of the playground shows Student leaving the playground through the east gate. *Exhibit N*. Paraprofessional 1 notices Student is missing approximately five and a half minutes later. *Id.; Interview with Paraprofessional 1*. After searching the playground area for approximately one minute, Paraprofessionals 1 and 3 left the playground in search of Student, six and a half minutes after she had left. *Exhibit N; Interviews with Paraprofessional 1 and 3*. Case Manager and Paraprofessional 2 remained at the playground to watch the other students. *Interviews with Case Manager and Paraprofessional 2*.
26. Security footage of School's parking lot shows Student walk through the parking lot, attempt to open a car door, and then proceed to an area of houses adjacent to the parking lot. *Exhibit O*. She approached one of the houses and began playing with the security pad by the front door. *Interview with Parents*. The homeowner opened the door and asked her name and what she was doing. *Id.* Student is nonverbal and thus did not answer. *Id.* She walked into the house and began playing with the homeowner's granddaughter. *Id.*
27. The homeowner called the police at 9:10 a.m. and then walked outside her house to the edge of School's parking lot. *Exhibit 1*, p. 1; *Exhibit N*. According to the security footage, the homeowner walked outside approximately five minutes after Student approached her house. *Exhibit O*. Less than a minute later, when Paraprofessionals 1 and 3 ran through the parking lot in search of Student, the homeowner asked if they were looking for Student. *Interview with Paraprofessional 1 and Paraprofessional 3; Exhibit O*.
28. Paraprofessionals 1 and 3 proceeded to the house where they found Student. *Interviews with Paraprofessional 1 and Paraprofessional 3*. School's principal ("Principal") had observed them running through the parking lot from her office window. *Interview with Principal*. She followed them and arrived at the house as they were leaving with Student. *Id.; Exhibit O*. They returned her to School. *Interviews with Paraprofessional 1 and Paraprofessional 3*. Student had been unsupervised for approximately seven to ten minutes. *Exhibit O; Exhibit N; Interviews with Parent, Case Manager, Paraprofessional 1, Paraprofessional 3, and Director*.

29. Once Principal returned to School, she called Parent to inform her that Student left school grounds, that it took three adults to catch up with her, that she was only gone for a few minutes, and that she was returned to school safely. *Interview with Parent and Principal*.
30. A school resource officer, in response to the homeowner's call to police, responded, spoke with staff, and called Parent at 10:03 a.m. to inform her that Student had eloped but returned to School. *Complaint, p. 2; Interview with Principal*.
31. Following this incident, District implemented a procedure requiring that a staff member be at each gate and have radios with them during recess. *Interview with Director*. District also took corrective measures in response to the incident for the staff involved, to include assigning Paraprofessionals 1 and 2 to other classrooms in District. *Id.*
32. Based on these findings, the CDE finds that District did not provide "significant adult supervision to safety monitor behaviors such as . . . eloping, and engaging in unsafe behaviors" during recess on September 26, 2024, as required by the IEP.

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: District made the IEP accessible to teachers and service providers responsible for its implementation, as required by 34 C.F.R. § 300.323(d). District did not fully implement one accommodation from the IEP on September 26, 2024, as required by 34 C.F.R. § 300.323(c). This did not result in a denial of FAPE.**

#### **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 "[a]s soon as possible following the development of the IEP, special education and related services are made available to a child in accordance with the child's IEP." *Id.* § 300.323(c)(2). To satisfy this obligation, a district must ensure that each teacher, related services provider, and "any other service provider responsible for [IEP] implementation:" (1) has access to the IEP and (2) is informed of "his or her specific responsibilities related to implementing the child's IEP" and the "specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP." *Id.* § 300.323(d). "Paraprofessionals may assist licensed personnel in the provision of services related to instruction or supervision of children and may assist in the provision of special education and

related services. They must be appropriately and adequately trained and supervised based on their role.” ECEA Rule 3.04(1)(e). Each district “will determine the qualifications, competencies, and training required for paraprofessionals to ensure student safety and their preparation to assist in the lawful provision of special education and related services. The level of supervision should generally increase for students with a higher level of vulnerability due to their disability (e.g. line-of-sight supervision for non-verbal students).” *Id.*

### **B. Accessibility and Responsibilities**

The CDE must determine whether District satisfied its obligation under 34 C.F.R. § 300.323(d). Here, the CDE finds and concludes that District fulfilled this duty. The Record reflects that Case Manager, Paraprofessional 1, Paraprofessional 2, and Paraprofessional 3 all had access to Student’s IEP, were all informed of their specific responsibilities related to its implementation, and they understood their responsibilities under the IEP. (FF #s 18-20). Specifically, Case Manager, Paraprofessional 1, and Paraprofessional 2 were aware Student required heightened supervision. (FF # 20). Accordingly, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

### **C. Implementation of “significant adult supervision” on September 26, 2024**

Parent is concerned District did not implement the IEP on September 26, 2024, when Student eloped from School during recess. (FF # 22). The accommodation at issue here provides that Student “requires significant adult supervision to safety monitor behaviors such as climbing furniture, eloping, and engaging in other unsafe behaviors.” *Id.* (FF # 11). District understood this accommodation to often mean one-to-one supervision. (FF # 22).

On September 26, 2024, District provided a one-to-one ratio of staff to Student and three peers during recess, as Paraprofessional 1 was specifically assigned to Student. (FF # 22). A total of four staff members stood in one corner of the playground while the four students played on the playground equipment in the center. (FF # 24). From this location, staff did not have visibility of an east gate, which Student opened and left the playground through. (FF #s 24-25). Student walked across a parking lot and entered a house off School grounds undetected. (FF #s 24-27). Student was entirely unsupervised for approximately seven to ten minutes before School staff discovered Student was missing from the playground and found her at the house. (FF #s 25-28). Student was safely returned to School at which point Principal called Parent to inform her of the incident. (FF # 29). For these reasons, the CDE finds and concludes that District did not comply with 34 C.F.R. § 300.323(c)(2).

### **D. Materiality of Noncompliance**

Where the definition of a FAPE specifically references delivery of special education and related services consistent with an IEP, not implementing an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.19. Not implementing a “material”, “essential”, or “significant” provision of a student’s IEP amounts to a denial of a FAPE. *See, e.g., Van Duyn ex rel. Van Duyn v. Baker*

*Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007) (concluding consistent with “sister courts . . . that a material failure to implement an IEP violates the IDEA”); *Neosho R-V Sch. Dist. v. Clark*, 315 F.3d 1022, 1027 (8th Cir. 2003) (holding that not implementing an “essential element of the IEP” denies a FAPE); *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000) (ruling that not implementing the “significant provisions of the IEP” denies a FAPE).

“A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP.” *Van Duyn ex rel. Van Duyn*, 502 F.3d at 822. The materiality standard “does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided.” *Id.*

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

Here, the CDE recognizes the gravity of the situation and Parent's concerns about Student's safety during the incident. District staff were providing one-to-one supervision of Student when a lapse in attentiveness allowed Student to elope from School. (FF #s 25–28). Student was located by a nearby homeowner—rather than school personnel—who ensured her safety until she could be returned to School. (FF #s 26–27). Although Student was ultimately unharmed (FF # 28), elopement from campus presents an immediate and substantial risk of harm, particularly for a student with known vulnerabilities. Student was unsupervised for approximately seven to ten minutes, a significant duration given the expectation of continuous supervision. (FF #s 25–28). The incident reflects a breakdown in a critical safeguard and underscores the need for heightened vigilance and staff accountability. Principal immediately contacted Parent to inform her of what occurred. (FF # 29). In response, the District implemented new safety precautions at recess and reassigned Paraprofessional 1 and Paraprofessional 2. (FF # 31). While the incident raised serious safety concerns, the failure did not constitute a material deviation from the IEP and therefore did not result in a denial of FAPE.

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

Pursuant to its general supervisory authority, the CDE must also consider and ensure the appropriate future provision of services for all IDEA-eligible students in the District. 34 C.F.R. § 300.151(b)(2). Indeed, the U.S. Department of Education has emphasized that state complaint systems are “critical” to the State Educational Agency’s “exercise of its general supervision responsibilities” and serve as a “powerful tool to identify and correct noncompliance with Part B.” *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

Nothing in the Record suggests that the noncompliance in this investigation is systemic. Director credibly explained District’s responsibilities under the IDEA, and District has processes in place to train staff. (FF #s 4-8). Also, District has increased training materials for paraprofessional staff specifically since this incident occurred, including creating a paraprofessional guidebook. (FF # 4-8). And District revised its procedures for playground monitoring because of this incident. (FF # 31). The noncompliance here resulted from an isolated and unfortunate incident that impacted solely Student. (FF #s 22-28). District staff were aware of Student’s IEP and their responsibilities under the IEP. (FF #s 18-20). Staff were prepared to implement Student’s IEP that day, with a one-to-one ratio of staff to students on the playground, as Paraprofessional 1 was assigned to Student. (FF # 23). Staff were also aware they were assigned to specific gates on the playground. (FF #s 22-23). Instead, lack of focus and adherence to practice for approximately five minutes led to the noncompliance. (FF # 25). The CDE is reassured that Student was not harmed during the incident and returned safely to School. Thus, the CDE finds and concludes that the noncompliance is not systemic or otherwise extends beyond Student.

### **REMEDIES**

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

1. Implementing the IEP, as required by 34 C.F.R. § 300.323.

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

#### **1. Final Decision Review**

- a. Case Manager, Paraprofessional 1, Paraprofessional 2, Paraprofessional 3, Principal, and Director must read this Decision in its entirety, as well as review the requirements of 34 C.F.R. § 300.323 and ECEA Rule 3.04(1)(e), by **Friday, December 12, 2025**. If these individuals are no longer employed by District, District may substitute individuals occupying identical roles to demonstrate compliance with this remedy. A signed assurance that this information has been read and reviewed must be provided to the CDE by **Friday, December 19, 2025**.

**NOTE:** CDE Special Education Monitoring and Technical Assistance Consultant will contact District with specific instructions for securely submitting the documentation detailed above. If District

does not meet the timelines set forth above, it may adversely affect District's annual determination under the IDEA and subject District to enforcement action by the CDE.

### **CONCLUSION**

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

Dated this 14th day of November, 2025.



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Tara Carone  
State Complaints Officer

## APPENDIX

### **Complaint, pages 1-5**

- Exhibit 1: Sheriff Incident Report
- Exhibit 2: October 9, 2024 Meeting Summary

### **Response, pages 1-6**

- Exhibit A: IEP
- Exhibit C: Prior Written Notices
- Exhibit D: Documentation from IEP Meetings
- Exhibit F: Service Logs
- Exhibit G: Schedule, Grades, Attendance
- Exhibit H: Progress Monitoring
- Exhibit I: District's Calendar
- Exhibit J: Policies and Procedures
- Exhibit K: Correspondence
- Exhibit L: District Staff
- Exhibit M: Verification of Delivery
- Exhibit N: Playground Security Camera Footage
- Exhibit O: Parking Lot Security Camera Footage
- Exhibit P: Parking Lot Security Camera Footage 2

### **Telephone Interviews**

- Parent: October 17, 2025
- Principal: October 23, 2025
- Director: October 20, 2025
- Case Manager: October 23, 2025
- Paraprofessional 1: October 23, 2025
- Paraprofessional 2: October 23, 2025
- Paraprofessional 3: October 23, 2025