

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

State Complaints SC2025-608
Thompson School District

DECISION

INTRODUCTION

On September 18, 2025, the parents (“Parents”) of a student (“Student A”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against Thompson School District (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified three allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153. The Complaint also raised an allegation involving similarly situated students (collectively with Student A, “Students”) participating in a District intensive learning program (“ILC”) overseen by a substitute teacher (“Teacher”) at a District elementary school (“School”).

The CDE extended the 60-day investigation due to exceptional circumstances, consistent with 34 C.F.R. § 300.152(b)(1).

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 18, 2024. Information prior to that date may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

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

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

1. Did not ensure Student A’s special education teacher possessed the required certifications and licenses during the 2024-2025 school year, as required by 34 C.F.R. §§ 300.156 and 300.207, and ECEA Rule 3.04.
2. District did not fully implement Student A’s Individualized Education Program (“IEP”) because it:
 - a. Did not make the IEP accessible to teachers or service providers responsible for its implementation from September 18, 2024 through the end of the 2024-2025 school year, as required by 34 C.F.R. § 300.323(d);
 - b. Did not provide the health plan components listed in the IEP—specifically with respect to prevention of soiled clothing in September and October 2024 and application of ankle foot orthosis braces on or around December 16, 2024—as required by 34 C.F.R. § 300.323(c);
 - c. Did not provide the augmentative and alternative communication device listed in the IEP in or around October 2024, as required by 34 C.F.R. § 300.323(c);
 - d. Did not provide the visual aids listed in the IEP from September 18, 2024 through October 2024, as required by 34 C.F.R. § 300.323(c); and
 - e. Did not provide Parents with periodic reports on progress consistent with the IEP from October 2024 through December 2024, as required by 34 C.F.R. §§ 300.320(a)(3)(ii), 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 A is ten years old and attended School in fourth grade during the 2024-2025 school year. *Exhibit A*, p. 31. Student A qualifies for special education and related services under the disability categories of Multiple Disabilities and Speech or Language Impairment. *Id.*

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.

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

2. Student A is enthusiastic and loves being around his peers. *Interviews with Parents, Student A's general education teacher ("General Education Teacher"), a District autism interventionist ("Interventionist,") and a District special education coordinator ("Coordinator").* He advocates for himself well in the school environment, and loves learning about vehicles and transportation. *Id.*
3. Student A's IEP ("IEP") was in effect throughout the 2024-2025 school year and was reviewed and revised following an IEP meeting on January 23, 2025. *Exhibit AA, pp. 1, 31.*
4. Alongside Student A, eight additional Students participated in the ILC during the 2024-2025 school year. *Response, Exhibits P and Q.*

B. District's Practices, Policies, and Procedures

5. District's director of special education ("Director") described District's obligations under IDEA and ECEA, stating that District's primary objective is to meet the individualized needs of students receiving special education and related services. *Interview with Director.*
6. Director stated that District seeks to ensure that its staff are knowledgeable about their responsibilities under special education law and conducts regular professional development to educate staff regarding those responsibilities. *Id.*
7. Director described his understanding that special education teachers must possess proper licensure to provide IEP services. *Id.*
8. When a vacancy or other intervening event creates a situation wherein the District cannot provide a properly licensed special education teacher, Director stated that District seeks to mitigate potential impact to students by staffing the position with an individual who lacks a special education license until a properly licensed teacher is found. *Id.* In such situations, District seeks to provide the unlicensed teacher with access to and support from properly licensed professionals working in the same building and district-level staff. *Id.* District's practices related to special education teacher vacancies are not contained in a written procedure. *Id.; Exhibit K.*
9. Director stated that District instructs its staff to implement IEPs with fidelity. *Id.* To ensure that staff responsible for the implementation of IEPs are aware of their specific responsibilities, each student's case manager is responsible for ensuring that those staff members are familiar with the content of the IEP relevant to their implementation obligations. *Id.*
10. District maintains an electronic student record system through which staff members responsible for IEP implementation may access student IEPs. *Id.* District staff are trained in how to use this system to access information as part of their onboarding process. *Interviews with Director and Interventionist.*

C. The ILC Vacancy

11. Student A participated in the ILC during the 2024-2025 school year. *Exhibit A* at p. 56. The ILC, or Intensive Learning Center, is one of the instructional settings offered by District to provide individualized instructional support to students who require more support than a typical special education classroom can provide. *Interview with Director; CDE Exhibit 5*. Several District schools at the elementary, middle, and high-school level offer ILC programming. *Id.*
12. On August 1, 2024, the teacher who had been assigned to the ILC for the 2023-2024 school year (“Previous ILC Teacher”) sent an email to ILC parents stating that she had accepted another teaching position and would not be teaching the ILC classroom during the 2024-2025 school year. *Exhibit L*, p. 1.
13. On August 11, 2024, School’s principal sent an email to ILC parents informing them that District was in the hiring search process for a new ILC teacher. *Id.* at p. 6. The email also stated that a teacher who had recently retired from School (“Temporary ILC Teacher”) had agreed to cover the ILC classroom for the first two weeks of the school year and was working with School’s paraprofessionals and District personnel to prepare for the start of the year. *Id.*
14. District and School reviewed applications and conducted interviews for School’s vacant ILC position, but no applicants possessed a special education licensure. *Interview with Coordinator; Exhibit L*, p. 6.
15. District assigned Interventionist, who has a special education license, to support the ILC for the start of the school year. *Interviews with Director, Coordinator, and Interventionist*. Interventionist began working full time at School on August 7, 2024, one week prior to the first student-contact day. *Interviews with Coordinator and Interventionist; Exhibit I*.
16. Temporary ILC Teacher and Interventionist co-managed the ILC for the first two weeks of the school year, from August 14 through August 28, 2024. *Id.* Following these two weeks, Temporary ILC Teacher left School to resume her retirement. *Interviews with Director, Coordinator, and Interventionist*.
17. In late August and early September 2024, District identified and hired Teacher, an out-of-state general education teacher who was planning to move to Colorado, to act as a substitute teacher for the ILC. *Interviews with Director and Coordinator*. Teacher did not possess a license with an endorsement in special education. *CDE Exhibit 2*.
18. Director and Coordinator described that during the hiring process, Teacher indicated that she was interested in pursuing a special education license and becoming the permanent ILC teacher. *Id.* Director stated that because he believed that Teacher would become the long-term ILC teacher at School, District did not actively seek a replacement teacher for the ILC. *Interview with Director*.

19. On September 6, 2024, School's principal sent an email to ILC parents announcing the hire of Teacher and informing them that she would be working toward her special education licensure while in the role. *Exhibit L*, p. 230.
20. On September 11, 2024, Teacher obtained a substitute teacher authorization with an endorsement for kindergarten through 12th grade. *CDE Exhibit 2*.
21. From August 29 through September 15, 2024, Interventionist was the sole manager of the ILC. *Interviews with Interventionist and Coordinator*.
22. On September 16, 2024, Teacher began working full time at School and started managing the ILC with direct support from Interventionist. *Id.* Interventionist worked her last full-time day on site at School on September 19, 2024, returning to her typical itinerant duties across District schools. *Interview with Interventionist*.

D. District's Efforts to Support Teacher in the ILC

23. Teacher's duties in managing the ILC primarily included overseeing the day-to-day operations of the classroom, delivering instruction to the classroom's nine students, monitoring and recording student progress, and coordinating the work of the classroom's paraprofessionals. *Interviews with Interventionist and Coordinator; Exhibit L*, p. 176.
24. From September 20, 2024 through the end of the 2024-2025 school year, Interventionist met with Teacher on a regular basis, ranging from once per week to once per month. *Id.* During these meetings, Interventionist and Teacher would review student IEPs, discuss instructional strategies, and problem-solve issues that had arisen in the ILC. *Interview with Interventionist*.
25. A District board certified behavior analyst ("BCBA") observed the ILC classroom on several days during the 2024-2025 school year, meeting with Teacher to provide strategies and support for addressing student behavioral concerns. *Interview with Coordinator*.
26. Each Thursday from November 14, 2024 through the end of the 2024-2025 school year, a District registered behavior technician ("RBT") observed and supported the ILC classroom. *Id.*
27. District assigned an experienced ILC teacher ("Mentor") from another school building to act as Teacher's mentor. *Interviews with Director and Coordinator*. Teacher and Mentor met on a semi-weekly or monthly basis to discuss ILC matters and review paperwork. *Id.*
28. Teacher attended a weekly meeting with all special education teachers working at School, moderated by Coordinator, where participants would collaborate to address special education issues arising at School. *Interview with Coordinator*. At and following these meetings, Coordinator and Teacher would typically check in regarding the state of the ILC. *Id.*
29. Teacher would attend a monthly meeting with all ILC teachers across the District to review tools and strategies for running an ILC. *Interview with Coordinator; Response*, p. 7.

30. A resource room special education teacher at School (“Resource Teacher”) assisted Teacher with some of the students on her caseload. *Interviews with Coordinator and Interventionist; Exhibit L*, p. 176.
31. On October 17, 2024, School’s principal sent an email to Director requesting that Teacher receive additional training to help her perform her duties in the ILC classroom. *Exhibit L*, p. 176.
32. In October 2024, District provided a substitute teacher to the ILC so that Teacher could attend a one-on-one training with Coordinator. *Interview with Coordinator*. Additionally, Teacher conducted an observation of Mentor’s ILC classroom to receive further professional development. *Exhibit L*, p. 176.
33. In December 2024, Director, concerned that District had not received any updates regarding Teacher’s progress toward special education licensure, contacted Teacher to ask for more information. *Interview with Director*. In January 2025, Teacher informed District that she no longer intended to pursue special education licensure. *Id.*; *Response*, p. 7.
34. On March 26, 2025, Teacher submitted a resignation letter indicating that she planned to resign her position on May 23, 2025. *CDE Exhibit 3*. On April 11, 2025, District opened a job posting for an ILC teacher at School. *Id.*
35. On May 7, 2025, School’s principal sent an email to ILC parents announcing School’s hire of a new ILC teacher (“New ILC Teacher”) for the 2025-2026 school year. *Exhibit L*, p. 567. New ILC Teacher possesses an active Colorado special education license and began work at School in August 2025. *CDE Exhibit 4; Interviews with Parents, Director, and Coordinator*.

E. ILC Services Required by Students’ IEPs

36. The IEPs of each of the nine Students require that direct specially designed instruction (“SDI”), delivered in the ILC, be provided on a weekly basis. *Exhibits A and Q*. From September 19, 2024, through the end of the 2024-2025 school year, a period including 32 weeks of school:
 - Student A’s IEP required 34,125 minutes of direct SDI delivered in the ILC. *Exhibit A*, pp. 27-28, 56-57.
 - Student B’s IEP required 22,500 minutes of direct SDI delivered in the ILC. *Exhibit Q-8*, pp. 22-23, 51-52.
 - Student C’s IEP required 23,825 minutes of direct SDI delivered in the ILC. *Exhibit Q-1*, pp. 17-18, 37-38.
 - Student D’s IEP required 26,900 minutes of direct SDI delivered in the ILC. *Exhibit Q-2*, pp. 16-17, 35.

- Student E’s IEP required 30,000 minutes of direct SDI delivered in the ILC. ⁴ *Exhibit Q-3*, pp. 19-20.
- Student F’s IEP required 10,650 minutes of direct SDI delivered in the ILC. *Exhibit Q-4*, pp. 2, 18-19, 41, 63.
- Student G’s IEP required 22,400 minutes of direct SDI delivered in the ILC. *Exhibit Q-5*, pp. 19-20, 48-49.
- Student H’s IEP required 22,400 minutes of direct SDI delivered in the ILC. *Exhibit Q-6*, pp. 20-21, 39-40.
- Student I’s IEP required 23,825 minutes of direct SDI delivered in the ILC. *Exhibit Q-7*, pp. 19-20, 42-43.

37. District measured progress on annual goals for each of the nine Students during the 2024-2025 school year. *Exhibit S*. The progress monitoring reports showed that each Student made some progress toward their academic goals. *Id.*

38. District’s Response proposed that the CDE consider an equitable remedy designed to address the licensure issues during the 2024-2025 school year. *Response*, p. 9. District’s proposal would provide each Student with 39 hours of compensatory SDI. *Id.* It would also require that each Student’s case manager measure progress on annual goals for literacy and math, and based on an evaluation of that progress, hold an IEP meeting to determine whether additional compensatory services are warranted. *Id.*

F. Accessibility and Knowledge of Students’ IEPs

39. For those students who also received services from School’s resource room, including Students B and F, Resource Teacher served as the case manager. *Exhibit Q-8*, p. 55; *Exhibit Q-4*, p. 21. For those students who did not receive services from Resource Teacher—including Students A, C, D, E, G, H, and I—Interventionist served as case manager. *Exhibit L*, p. 548; *Exhibit A*, p. 59; *Exhibit Q-1*, p. 19; *Exhibit Q-2*, p. 18; *Exhibit Q-3*, p. 20; *Exhibit Q-5*, pp. 51-53; *Exhibit Q-6*, p. 22; *Exhibit Q-7*, p. 21.

40. Prior to the start of the 2024-2025 school year, Interventionist reviewed the IEPs of the Students and conferred with Prior ILC Teacher regarding those IEPs. *Interview with Interventionist*. Interventionist updated Students’ IEP snapshot documents and distributed those snapshots to School staff involved in implementing the IEPs. *Id.*; *Exhibit A*, p. 60. For example, the IEP snapshot for Student A includes information on his goals, accommodations, medical needs, sensory needs, and eating routines. *Exhibit A*, p. 60.

⁴ Student E left School on April 3, 2025, meaning he was in School for 25 weeks. *Response 1*, p. 11.

41. General Education Teacher reported that she was provided with access to Students' IEPs both in printed form and through District's electronic student information management system, and used the electronic system to access IEPs. *Interview with General Education Teacher*. General Education Teacher credibly described their understanding of the components of Student A's IEP she was responsible for implementing. *Id.*
42. When Teacher started at School on September 16, 2024, Interventionist provided her with printed copies of the IEPs of each Student, answered Teacher's questions, and worked to make sure that Teacher could access District's electronic student information management system. *Interview with Interventionist*.
43. General Education Teacher reported that over the course of the school year, she would occasionally discuss Students' IEPs with Teacher. *Interview with General Education Teacher*.

G. Implementation of Student A's Health Care Plan

The IEP's Health Care Plan

44. Parents expressed concerns regarding whether two aspects of Student A's health care plan in the IEP—guidelines related to changing of soiled clothing and the use of ankle-foot orthosis braces ("AFO braces")—were implemented during the 2024-2025 school year. *Complaint*, p. 5; *Interview with Parent*.
45. Two versions of the IEP, dated January 24, 2024 and January 23, 2025, discuss Student A's school health needs in detail. *Exhibit A*, pp. 6-7, 34-35. The Consideration of Special Factors section of each IEP notes that Student A requires the use of a health care plan, stating that "[s]taff that work directly with [Student A] are explicitly trained in [Student A]'s health needs and his school health care plan by the school nurse." *Exhibit A*, pp. 10, 41.
46. Student A's health care plan for the 2024-2025 school year was developed in collaboration between School's nurse and Parents on or around August 12, 2024. *Exhibit L*, p. 8.
47. Following the development of this health care plan, School's nurse met with Interventionist and the ILC classroom's paraprofessionals to review and discuss Student A's health care plan and train them on the implementation of the plan. *Interview with Interventionist*. The nurse met with Teacher when she started work at School on September 16, 2024, to review and discuss the health care plan and train Teacher on its proper implementation. *Id.*
48. School staff described that the implementation of components of Student A's health care plan was the responsibility of School's paraprofessionals and the ILC teacher. *Interviews with Interventionist and General Education Teacher*.
49. A paper copy of the health care plan was provided for the ILC classroom, and Interventionist and Teacher had access to the electronic copy of the health care plan via District's electronic student information management system. *Interview with Interventionist; Exhibit O*.

50. The IEP snapshot provided to General Education Teacher includes a summary of Student A's health care needs. *Exhibit A*, p. 60.

Soiled Clothing Guidelines

51. Parents expressed concern that on or around September 26, 2024, Student A returned home in soiled clothing, and had not been changed into clean clothing as required by the health care plan, and that on or around October 10, 2024, they observed him at School with an unchanged pull-up. *Interview with Parents*.

52. The IEP describes that Student A wears pull-ups to address toileting, and requires routine colostomy care to ensure the safe use of his colostomy bag at School. *Exhibit A*, pp. 7, 35.

53. Student A's health care plan describes that his colostomy bag must be checked and emptied every two hours, and his pull-up must be checked and changed every two hours and as needed. *Exhibit O*, p. 4.

54. Parent regularly provided School with a spare change of clothing so that Student A could be changed into clean clothing as needed. *Interviews with Parents and Interventionist*.

55. On September 26, 2024, Parents observed that he got off the school bus with fecal stains on his shirt and shorts and noticeably smelled of feces. *Interview with Parents; Exhibit L*, p. 71.

56. In an email to School's principal, Teacher, and Interventionist that afternoon, Parents described these observations and sent a photograph of the soiled clothing. *Exhibit L*, pp. 71-72.

57. That evening, Interventionist responded to the email, stating that she had been at School that morning until 10:00 a.m.⁵ *Id.* at p. 75. At 8:30 a.m., she observed that Student A had a urine accident and directed a paraprofessional to change him into spare clothing. *Id.* She described that she did not know how the fecal stains happened but apologized and promised to address the issue with School staff the next day. *Id.*

58. The next morning, Teacher emailed Parents, apologizing for the incident, noting that she had spoken to the paraprofessional who had been directed to change Student's clothing, and assuring that such an incident would not recur. *Id.* at p. 79.

59. On October 10, 2024, Parents attended an outdoor activity at School. *Id.* at pp. 114. Due to the event, the Students were outdoors and supervised by a paraprofessional. *Id.* Parents observed that Student A soiled his pull-up but had not been changed. *Id.* The paraprofessional, who was the same paraprofessional involved in the September incident,

⁵ Although Interventionist no longer worked at School full time starting September 19, 2024, she continued to visit the classroom intermittently. *Interview with Interventionist*.

stated that she was waiting for a second paraprofessional to arrive so that she could change Student A without leaving the other Students unsupervised. *Id.*

60. On October 14, 2024, Parents sent an email to Teacher and School's principal describing these concerns. *Id.* Later that day, Teacher offered to schedule a meeting the next day with Parents to discuss those concerns and brainstorm solutions. *Id.* at p. 116.
61. Following that meeting, Parents asked that the paraprofessional involved in these incidents no longer be assigned to support Student A. *Id.* at p. 127. School's principal noted that because of the nature of the ILC and the necessity for paraprofessionals to support students as needed, he could not guarantee that the paraprofessional in question would have no further contact with Student A, but he assured Parents that to the extent the request was possible, the ILC staff would seek to accommodate it. *Id.* at pp. 138-139.
62. Parents did not report additional issues related to the toileting and soiled clothing components of the health care plan. *Interview with Parents.*
63. Communication between School staff and Parents indicates that on January 27, 2025, Student A had a toileting accident at School and was properly changed into clean clothes. *Exhibit L*, p. 420.
64. Based on these facts, the CDE finds that the components of the health care plan related to changing of soiled clothing were not implemented on September 26 and October 10, 2024 as required by Student A's IEP.

AFO Braces Guidelines

65. Parents expressed concern that on or around December 16, 2024, Student A's AFO braces were improperly applied at School. *Interview with Parents.*
66. The IEP describes that he wears bilateral AFO braces at School as tolerated and may need to take pain medication to address pain or discomfort from the braces. *Exhibit A*, p. 35. The IEP further states that he wears the braces until he indicates that they are bothering him, at which point they are removed until the end of the day, when they are re-applied before he returns home. *Id.* at pp. 37-38.
67. The health care plan describes that when he is wearing his AFO braces at School, staff must check his skin every two hours for irritation. *Exhibit O*, p. 5. To check for irritation, Student A's braces and socks should be removed, and only be replaced if irritation is not found. *Id.*
68. Parents described that this usage of braces was designed to help Student A acclimate to regular and long-term usage of braces, as he is likely to need to use them as he grows. *Interview with Parents.*

69. Parents observed that when he returned home from School on December 16, 2024, his right AFO brace was improperly applied. *Exhibit L*, p. 303; *Interview with Parents*; *Exhibit 2*.
70. Parents took photographs of his right leg indicating that his socks were not pulled up to create a barrier between his skin and the top of the brace, two of the brace's three Velcro straps were not secured, and a hard plastic plate was positioned in such a way that it placed acute pressure on Student A's skin. *Id.* Parents sent these pictures, and an explanation of their concerns, to Teacher, Principal, and School's principal. *Exhibit L*, p. 303.
71. School's principal described in a December 18, 2024 email that issue with the AFO braces arose because the ILC classroom had a substitute paraprofessional who had not been trained in the application of Student A's AFO braces. *Id.* at p. 310.
72. Following this incident, Teacher, School's principal, and Coordinator established a rule that Student A's AFO braces would only be applied by Teacher or one of the paraprofessionals who had received training in the application of the braces. *Interviews with Parents and Coordinator*; *Exhibit L*, p. 310.
73. Student continued to attend school and Parents did not report any other related AFO brace concerns. *Interview with Parents*.
74. Based on these facts, the CDE finds that the components of the health care plan related to AFO braces were not implemented on December 16, 2024 as required by Student A's IEP.

H. Implementation of Student A's Assistive Technology

75. Parents expressed concerns that Student A's augmentative and alternative communication device ("AAC") was not made available to him throughout his school day during the 2024-2025 school year. *Complaint*, p. 6; *Interview with Parents*.
76. The IEP indicates that he primarily communicates without speech. *Exhibit A*, pp. 7, 37. The present levels of performance section describes that Student A is working on his skills using the AAC to communicate but prefers to communicate through gestures and vocalizations. *Id.* The IEP's consideration of special factors section states that Student A needs assistive technology devices—specifically a personal AAC device—to communicate. *Id.* at pp. 10, 40.
77. Parents expressed that while they believed that Student A worked with his AAC device while in the ILC classroom, they suspected that he was not permitted access to the device during other times of the day such as lunch. *Interview with Parents*. They explained that this suspicion arose from their understanding that Student A would become frustrated and exhibit behavior during the school day, which would only occur if Student A were unable to effectively express himself using the AAC. *Id.*

78. Interventionist described that while working with his AAC device was a non-preferred activity for Student A, she, and later Teacher, made a point of ensuring that Student A worked with his AAC device each day to increase familiarity with the device. *Interview with Interventionist*.
79. Student A's progress reports described in detail his work with the AAC device—for example, the March 4, 2025, progress report described that when Student A was working on simple mathematics, he would provide answers using visual cards or manipulatives, and then, when prompted, express the number using his AAC. *Exhibit G*, p. 12.
80. General Education Teacher stated that Student A had access to his AAC device during time in her classroom and specifically described that his AAC device would be brought to the lunchroom by a paraprofessional. *Interview with General Education Teacher*. General Education Teacher was able to describe the AAC device using specific visual detail. *Id.* She noted that Student A did not typically use the device during such times, but that it was always at the lunch table. *Id.*
81. Based on these facts, the CDE finds that the AAC device was made available during the 2024-2025 school year as required by Student A's IEP.

I. Implementation of Student A's Visual Aids Accommodation

82. Parents expressed concern that District did not provide the visual aid accommodation required by Student A's IEP. *Complaint*, p. 6; *Interview with Parents*.
83. The IEP describes accommodations necessary for Student A to access the general curriculum. *Exhibit A*, pp. 24, 53. One accommodation reads "use visual sequences and aids" and gives examples including visual schedules, timers, a first-then chart, and a token board. *Id.*
84. Parents described that their expectation of the visual aids accommodation was that Student A would be provided with a pocket folder including an individualized picture-based schedule describing the activities Student A could expect to participate in during the school day. *Interview with Parents*. This understanding was based on the methods that Prior ILC Teacher used during the previous school year. *Id.*
85. During the 2024-2025 school year, Teacher created a large visual schedule on the white board at the front of the room, which used pictures to depict the activities that each Student would be participating in during the school day. *Interviews with Interventionist and Coordinator*. Both Interventionist and Coordinator described that each time they visited the ILC, they saw this communal visual schedule being used. *Id.*
86. Parents communicated to Teacher on October 16, 2024, that she believed that the visual schedule used at the front of the room would not work as well for Student A as the personal visual schedule he had used in previous years. *Exhibit L*, p. 121. Parents provided Teacher with examples of the types of visual schedule Student A uses at home. *Id.*

87. Teacher agreed to develop an individualized visual schedule for Student A and emailed a copy of the schedule to Parents on November 7, 2024. *Id.* at pp. 249-251.
88. Based on these facts, the CDE finds that both the communal visual schedule used throughout the school year and the individualized visual schedule used from November 2024 through the end of the school year were “visual sequences and aids” and that District thus implemented this accommodation during the 2024-2025 school year as required by the IEP.

J. Progress Reports on Student A’s Annual Goals

89. Parents expressed concern that progress reports on annual goals were not consistently provided as required by the IEP. *Complaint*, p. 6; *Interview with Parents*. Specifically, Parents described that they did not receive quarterly progress reports in October or December 2024 until asking Coordinator to provide them in January 2025. *Interview with Parents*.
90. Student A’s annual goals each detail the frequency by which progress should be reported. *Exhibit A*, pp. 15-23, 44-53. Although the specific language for each goal varies, each indicates that progress toward annual goals will be reported on a quarterly basis. *Id.*
91. On January 23, 2025, Parents stated in an email to Coordinator that they had not received progress reports on Student A’s progress toward annual goals so far during the 2024-2025 school year. *Exhibit L*, p. 391.
92. Ten minutes after Parents requested the progress reports, Coordinator sent copies of the October 2024 and December 2024 progress reports. *Id.* at p. 393.
93. Coordinator stated that although she was unable to find documented evidence that Teacher sent the October and December progress reports to Parents at the appropriate time, District’s student information management system indicated that the progress reports themselves were completed at the conclusion of each quarter. *Interview with Coordinator*. She stated that it was possible that Teacher sent a paper copy of the progress reports home with Student A, in which case District would not have records of the reports being sent. *Id.*
94. Based on the above facts, the CDE finds that although progress reports were completed at the conclusion of each quarter, District did not provide Parents with the October 2024 and December 2024 progress reports as required by Student A’s IEP.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District did not ensure that Teacher was properly licensed during the 2024-2025 school year, as required by 34 C.F.R. §§ 300.156 and 300.207, and ECEA Rule 3.04. This noncompliance resulted in a denial of FAPE.

Parents' concern is that Teacher, who taught the ILC classroom from September 16, 2024 through the end of the 2024-2025 school year, lacked appropriate licensure. (FF #s 17, 19, 23, 33).

A. Legal Requirements for Personnel Qualifications

The CDE must establish qualifications to ensure that special education teachers are "appropriately and adequately prepared and trained . . . to serve children with disabilities." 34 C.F.R. § 300.156(a). This includes ensuring that all special education teachers have obtained state certification as special education teachers. *Id.* at § 300.156(c). School districts must ensure that staff are "appropriately and adequately prepared, subject to the requirements of § 300.156." *Id.* at § 300.207.

To that end, Colorado law mandates that "all special education teachers shall hold Colorado teacher's certificates or licenses with appropriate endorsements in special education." ECEA Rule 3.04(1)(a)(i). School districts bear responsibility for ensuring their staff comply with state licensing requirements. ECEA Rule 3.03.

B. Teacher's Personnel Qualifications

From the start of the 2024-2025 school year through September 19, 2024, the ILC program was instructed by Interventionist, a properly licensed special education teacher. (FF # 15-16, 21).

Beginning September 20, 2024, Teacher oversaw the ILC classroom and provided instruction to the classroom's nine Students through the end of the 2024-2025 school year. (FF #s 23-24, 34). Throughout that period, Teacher held only a substitute teacher authorization, and no endorsement in special education. (FF #s 17, 20). Although Teacher indicated during her hiring process that she planned to pursue special education licensure to remain in the job long term, she chose not to pursue that licensure. (FF #s 18, 33).

Teacher received support from several District staff members, including Interventionist, Coordinator, BCBA, Mentor, and Resource Teacher. (FF #s 24-32). Specifically, District ensured that each of the Students was assigned a case manager who possessed appropriate licensure, with some case managed by Interventionist and others case managed by Resource Teacher. (FF # 39). However, during the time Teacher was managing the ILC, nine students received the ILC services required by their IEPs from a provider who lacked appropriate licensure. (FF # 36).

Based on these facts, the CDE finds and concludes that the ILC classroom, and the nine Students participating in that program, lacked a teacher with proper licensure, from September 20, 2024 through the end of the 2024-2025 school year. Accordingly, the CDE finds and concludes that District did not comply with 34 C.F.R. §§ 300.156 and 300.207, and ECEA Rule 3.04.

C. Procedural Noncompliance

Procedural noncompliance of the IDEA may result in a denial of FAPE only to the extent that it (1) impeded the child's right to a FAPE, (2) significantly impeded the parent's opportunity to

participate in the decision-making process, or (3) caused a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); see *Knable ex rel. Knable v. Bexley City School Dist.*, 238 F.3d 755, 765-66 (6th Cir. 2001).

Here, there were nine Students in School's ILC during the 2024-2025 school year. (FF # 4). Each Student had an IEP that entitled them to direct specialized instruction to be delivered by a special education teacher in the ILC. (FF # 36). Teacher—the individual responsible for delivering Students' instruction from September 20, 2024 through the end of the 2024-2025 school year—was not licensed to teach special education in Colorado. (FFs # 17-18). Thus, the lack of a licensed special education teacher impacted implementation of Students' IEPs and, in turn, Students' abilities to make progress on their annual goals throughout the 2024-2025 school year. This impeded Students' right to a FAPE and deprived Students of an educational benefit. For these reasons, the SCO finds and concludes that the procedural noncompliance resulted in a denial of FAPE. See *Knable*, 238 F.3d at 765-66.

D. Compensatory Services

Compensatory services are an equitable remedy intended to place a student in the same position he would have been in if not for noncompliance. *Reid v. Dist. of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005). Compensatory services need not be an "hour-for-hour calculation." *Colo. Dep't of Ed.*, 118 LRP 43765 (SEA CO 6/22/18). The guide for any compensatory award should be the stated purposes of the IDEA, which include providing children with disabilities a FAPE that meets the particular needs of the child, and ensuring children receive the services to which they are entitled. *Ferren C. v. School District of Philadelphia*, 612 F.3d 712, 717-18 (3d Cir. 2010).

Here, the CDE finds and concludes that an award of compensatory services is appropriate.

Students' IEP teams determined that they would benefit from the SDI, delivered in the ILC, as outlined in their respective IEPs. (FF # 36.) During the eight months in which Teacher managed the ILC, these students did not receive any of these services from a properly licensed special education teacher. *Id.* Nevertheless, progress monitoring reports indicate that each Student made some progress toward their IEP goals during the 2024-2025 academic year. (FF # 37).

District, acknowledging the impact of this licensure issue, proposed an award of 39 hours of compensatory SDI for each Student and a method by which each Student's IEP team could review progress and determine whether additional compensatory services are necessary. (FF # 38).

The CDE finds and concludes, taking into consideration for each Student the noncompliance, progress toward annual goals, and District's proposal to address the noncompliance, that District's proposal that each Student receive at least 39 hours (2,340 minutes) of compensatory SDI necessary to place the Students in the same position they would have been in if not for noncompliance.

Conclusion to Allegation No. 2: District did not ensure that staff had access to and an understanding of responsibilities for implementing Student A’s IEP, as required by 34 C.F.R. § 300.323(d). This procedural noncompliance did not result in a denial of FAPE. District implemented Student A’s health care plan, access to an AAC device, visual aids accommodation, and progress reporting on annual goals in conformity with the IEP. District complied with the IDEA.

Parents’ concern is that District did not implement the components of Student A’s IEP. (FF #s 44, 51, 65, 75, 82, 89.)

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 2.21. 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.*, 580 U.S. at 392 (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). As soon as possible after an IEP is developed, school districts must implement the IEP by ensuring that: (1) teachers and related service providers responsible for implementation have access to and an understanding of their obligations under the IEP, and (2) special education and related services are made available to the child in accordance with the IEP. 34 C.F.R. §§ 300.324(d), 300.324(c)(2).

The IDEA does not excuse noncompliance with IEP implementation due to staff shortages. *E.g.*, *El Paso Cty. Sch. Dist. 20*, 122 LRP 39732 (SEA CO 6/5/22) (finding an ongoing obligation to provide FAPE pursuant to a student’s IEP during a staffing shortage); *See also In re: Student with a Disability*, 121 LRP 38674 (SEA KS 10/20/21) (finding an ongoing obligation to provide FAPE pursuant to a student’s IEP during a staffing shortage); *See also Denver Public Sch.*, 124 LRP 15404 (SEA CO 5/2/2024); *Denver Public Sch.*, 124 LRP 34377 (SEA CO 1/19/2024); *Academy Sch. Dist. 20*, 124 LRP 34397 (SEA CO 3/22/2024).

B. IEP Accessibility to Teachers and Others

A school district must ensure that each regular education teacher, special education teacher, related services provider, and any other service provider responsible for implementing an IEP 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.” 34 C.F.R. § 300.323(d). This obligation includes the duty to inform substitute teachers of their responsibilities for the implementation of an IEP. *See, e.g.*, *Douglas Cnty. Sch. Dist.*, 70 IDELR 111 (SEA NV 2017) (finding that a district did not comply with the IDEA in part because there was no evidence showing that the district informed a substitute of her

responsibilities for implementing a student's IEP, and ordering district to develop written procedures on how substitutes will be made aware of responsibilities for IEP implementation).

Student A's IEP

Here, the Record demonstrates that most of the providers at School were aware of their responsibilities under Student A's IEP. Interventionist worked to familiarize herself with the IEP and ensured that School staff responsible for their implementation had access to necessary information. (FF #s 40-42). General Education Teacher noted that she was able to access Student A's IEP via District's student information management system and accurately described her understanding of her responsibilities. (FF # 41).

However, with respect to the implementation of the health care plan, the Record indicates that not all staff were knowledgeable regarding their responsibilities. Specifically, the misapplication of the AFO brace arose because it was applied by a substitute paraprofessional who was not trained in how to use the braces consistent with what is required by the IEP. (FF # 71). Thus, the CDE finds and concludes that District did not comply with 34 C.F.R. § 300.323(d).

When a school district does not satisfy its obligation of ensuring that teachers and others are informed of their responsibilities for implementing an IEP, like here, there is procedural noncompliance. See 34 C.F.R. §§ 300.323(d), 300.513(a). The United States Supreme Court has stressed the importance of complying with IDEA's procedural requirements. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 205-206 (1982). However, procedural noncompliance is only actionable to the extent that the procedural inadequacies: (1) impeded the child's right to a FAPE, (2) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the child, or (3) caused deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Sytsema v. Acad. Sch. Dist. No. 20*, F.3d 1306, 1313 (10th Cir. 2008).

Here, this noncompliance was limited to the lack of knowledge of one substitute paraprofessional on one day. (FF # 68). When Parents notified School of the misapplication of Student A's brace, School took action to ensure that this component of Student A's health care plan would only be implemented by staff with knowledge regarding the use and application of the AFO brace. (FF # 69). Student continued to attend School, and no further AFO brace issues arose. (FF # 70). Based on these facts, the CDE finds and concludes that District's noncompliance did not impede Student A's right to a FAPE, did not impede Parents' opportunity to participate in the special education decision-making process, and did not cause deprivation of educational benefit. Accordingly, the CDE finds that this noncompliance did not result in a denial of FAPE.

C. IEP Implementation: Health Care Plan, Accommodations and Progress Reports

In implementing an IEP, a school district must provide "special education and related services "in conformity with" the IEP. 34 C.F.R. §§ 300.17, 300.324(c)(2); see *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 821 (9th Cir. 2007). Not providing special education and related services in conformity with an IEP can result in the denial of FAPE. 34 C.F.R. § 300.17; ECEA Rule

2.21(4). However, “there is no statutory requirement of perfect adherence to the IEP.” *Van Duyn*, 502 F.3d at 821. In other words, not every shortfall in services between those required by an IEP and those provided will result in a denial of FAPE. *Id.* To result in a denial of FAPE, there must be “more than a minor or technical gap between the [IEP] and reality; *de minimis* shortfalls [that do not themselves deprive a student of the education promise of the IDEA] are not enough.” *L.J. by N.N.J. v. Sch. Bd. of Broward Cnty.*, 927 F.3d 1203, 1211 (11th Cir. 2019); see, e.g., *L.C. and K.C. v. Utah State Bd. of Educ.*, 125 Fed. Appx. 252, 260 (10th Cir. 2005) (holding that minor deviations from the IEP's requirements which did not impact the student's ability to benefit from the special education program did not amount to a “clear failure” of the IEP); *T.M. v. District of Columbia*, 64 IDELR 197 (D.D.C. 2014) (finding “short gaps” in a child’s services did not amount to a material failure to provide related services). Thus, a “finding that a school district has failed to implement a requirement of a child’s IEP does not end the inquiry.” *In re: Student with a Disability*, 118 LRP 28092 (SEA CO 5/4/18). Instead, “the [CDE] must also determine whether the failure was material.” *Id.*

Material failures to implement an IEP constitute a denial of FAPE and substantive noncompliance with the IDEA. *Van Duyn*, 502 F.3d 811 at 822. “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.” *Id.* Courts will consider a case’s individual circumstances to determine if there is a “material failure of implementing the IEP.” *A.P. v. Woodstock Bd. of Educ.*, 370 Fed. Appx. 202, 205 (2d Cir. 2010). Material failures include shortfalls in implementing “substantial,” “significant,” or “necessary” IEP provisions. *Id.* at 818. The materiality standard has qualitative and quantitative components: the CDE should “determine *how much* [of a service] was withheld and *how important* the withheld services were in view of the IEP as a whole.” *L.J. v. N.J.J. v. Sch. Bd. of Broward Cnty.*, 927 F.3d 1203, 1214 (11th Cir. 2019). 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.” *Van Duyn*, 502 F.3d 811 at 822.

Therefore, to assess implementation concerns, the CDE engages in a two-pronged inquiry: (1) was there a shortfall in the provision of services required by the IEP, and (2), if so, did the shortfall amount to a material failure to implement the IEP and thus a denial of FAPE?

1. *Prong 1: Was there a Shortfall in Services?*

The CDE must first determine whether there was a shortfall between the services required by the IEP versus those made available to Student A. 34 C.F.R § 300.323(c)(2).

The Record shows that as required by Student A’s IEP: (a) that his soiled clothing guidelines were not followed on September 26, 2024, and October 10, 2024 (FF # 64); (b) that his AFO brace guidelines were not followed on December 16, 2024 (FF # 74); (c) that his AAC device was made available to him during the 2024-2025 school year (FF # 81); (d) that his visual aids accommodation was implemented during the 2024-2025 school year (FF # 88); and (e) that

progress reports for his annual goals in October 2024 and December 2024 were created but not provided to Parents. (FF # 94). For these reasons, the CDE finds and concludes that District did not implement three components of his IEP: soiled clothing guidelines on September 26, 2024, and October 10, 2024, AFO brace guidelines on December 16, 2024, and the provision of progress reports in October and December 2024.

2. Prong 2: Was the Shortfall Material?

Because there was a shortfall in the provision of services required by the IEP, the CDE must next determine whether this shortfall represents a material failure to implement the IEP such that Student A was denied FAPE.

Here, the shortfalls concern the implementation of two aspects of Student A's health care plan, and the provision of progress reports on Student A's annual goals in October and December 2024. (FF #s 64, 74, 94). With respect to the soiled clothing component of Student A's health care plan, the Record shows that this guideline was not followed on two dates—September 26, 2024, and October 10, 2024—but otherwise followed throughout the school year. (FF # 51-64). Likewise, the Record shows that Student A's AFO braces were generally applied correctly, but that a substitute paraprofessional misapplied those braces on one date—December 16, 2024. (FF #s 65-74). With respect to the provision of progress reports, the Record shows that progress toward annual goals was measured and recorded at the appropriate times, but that District did not ensure that those reports were sent to Parents until prior to the January 2025 IEP meeting. (FF #s 89-94).

In each of these respects, these shortfalls related to Student A's IEP were time-limited both in nature and in scope. The CDE does not intend to minimize Parents' concerns—especially with respect to shortfalls related to the health care plan—rather, this conclusion represents that taken in the aggregate, District implemented the requirements of Student A's IEP *at large*, despite the intermittent shortfalls.

For these reasons, the CDE finds and concludes that the shortfall was not material, and thus District implemented Student's IEP, as required by 34 C.F.R. § 300.323(c)(2); *see Van Duyn*, 502 F.3d at 821 (“There is no statutory requirement of perfect adherence to the IEP.”)

Systemic IDEA Noncompliance: This investigation demonstrates noncompliance that is systemic in nature and will likely impact the future provision of services for all children with disabilities in the District if not corrected. 34 C.F.R. § 300.151(b)(2).

Pursuant to its general supervisory authorities, 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 the state complaint procedures are “critical” to the State Enforcement 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).

IEP Accessibility to Teachers and Others

Here, the Record does not indicate that District’s noncompliance is systemic with respect to staff’s access to and knowledge of students’ IEPs. The noncompliance identified in this investigation pertains specifically to the knowledge of one substitute paraprofessional on one school day. (FF # 71). With respect to all staff who worked with Student on a day-to-day basis, the Record shows that they were knowledgeable about their responsibilities with respect to Student A’s IEP. (FF #s 40-43, 47-48). The paraprofessionals who worked in the ILC daily, as well as Teacher, received training from School’s nurse on how to implement Student A’s health care plan. (FF # 47). When District became aware that the substitute paraprofessional had improperly applied Student A’s braces, it established a rule that Student A’s health care plan would only be implemented by those staff members who had received that training. (FF # 72). Based on these facts, the CDE finds and concludes that the noncompliance identified in this investigation is unlikely to affect the future provision of services to IDEA-eligible students in the District.

Personnel Qualifications

Here, the Record indicates that District’s noncompliance is systemic with respect to personnel qualifications. The circumstances related to the noncompliance noted in this case involve an unexpected and untimely vacancy which arose just weeks prior to the start of the school year. (FF # 12.) Because of the timing of the vacancy, District was unable to find a properly licensed special education teacher. (FF # 14.)

District was aware of its responsibility to ensure that special education teachers possess appropriate certification and licensure. (FF # 7.) They hired Teacher, knowing that she lacked licensure, in order to mitigate the impact to the Students compared to leaving the position fully vacant. (FF # 8.) Recognizing that Teacher did not possess the skills or experience a licensed special education teacher would be expected to have, District provided Teacher with several supports to assist her in mitigating the impact to the Students. (FF #s 24-32.) CDE recognizes that District’s actions, likely put those students into a much better position than they would have been in short of those actions.

However, the Record nevertheless indicates that, without corrective action, this noncompliance is likely to impact the future provision of services to children with disabilities in District. Special education staffing challenges are, unfortunately, increasingly common across Colorado and the United States. Although District may not be able to avoid the difficulties associated with the increasingly prominent challenges of hiring qualified educators, District can create clear procedure for how to address those difficulties.

Currently, District lacks written procedure outlining how future vacancies like those faced in this investigation should be addressed, and how District should go about addressing any failure to

deliver FAPE to students. (FF # 8.) Such a procedure would help ensure that District is able to weather these challenges should they recur. Accordingly, the CDE will order District to create a written procedure addressing these concerns.

REMEDIES

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

1. Ensuring that a special education teacher was properly licensed, as required by 34 C.F.R. §§ 300.156 and 300.207, and ECEA Rule 3.04; and
2. Ensuring that staff members responsible for implementing students' IEPs are informed of their specific responsibilities related to implementing the IEP, as required by 34 C.F.R. § 300.323(d).

To demonstrate compliance, District is ORDERED to submit a corrective action plan ("CAP") by **Monday, January 5, 2026** that adequately addresses how the cited noncompliance will be corrected through the completion of the following remedies⁶:

1. Final Decision Review

- a. Special Education Director and all District special education coordinators must each read this Decision in its entirety, as well as review the requirements of 34 C.F.R. §§ 300.156, 300.207 300.323(d), and ECEA Rule 3.04 by **Monday, January 12, 2026**. If these individuals are no longer employed by the District, the 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 **Monday, January 19, 2025**.

2. Compensatory Services

- a. Each of Students A through I shall receive direct compensatory specially designed instruction ("SDI") by a licensed special education teacher selected by the District. Each Student shall receive no less than 2,340 minutes (39 hours) of compensatory SDI.
- b. Direct instructional services described in this section may be provided by any licensed special education teacher selected by District, whether that provider is a District employee or not. These services must be designed to advance Students

⁶ State Complaint SC2025-602, which involves the same systemic allegation as this Decision, also describes the Remedies District is ordered to perform in light of this shared allegation. Those remedies are described in both Decisions for the benefit of Parents and the field but are not intended to be cumulative – to the extent these remedies overlap, District is ordered to perform such Remedies only once.

toward current annual IEP goals and may be provided in a small group setting if determined appropriate by the District.

- c. By **Tuesday, January 20, 2026**, District shall submit to the CDE for review a draft letter to be sent to the parents of each Student. This letter shall notify parents that their student was identified in a recent state complaint decision (with information on where to find the decision) as a student who requires compensatory services as a result of District's noncompliance as identified in the decision.
 - i. This may be a form letter, but it must indicate the amount of services the Student has been awarded by the Decision.
 - ii. The letter must include a section requiring parents of each Student to sign, acknowledging their receipt of the letter and understanding of its contents.
 - iii. The letter must include a section requiring parents of each Impacted Student to consent or opt out of the compensatory education services.
 - iv. The CDE will approve the draft letter, approve it with modifications, or reject it by **Monday, January 26, 2026**.
- d. By **Monday, February 2, 2026**, District shall send the approved letter to the parents of Students.
 - i. District must translate the approved letter as necessary to provide it to any parents with limited English proficiency in their native language.
 - ii. District must send the letter via both email (if the parent has an email address) and postal mail.
 - iii. District must simultaneously submit a signed assurance to the CDE that the approved letters were sent to Students' parents, along with a list of the parents' names, Students' names, contact information, and the date that the letter was sent to each.
 - iv. If a Student no longer attends any District school or program, the District must make reasonable efforts to contact parents using any last known numbers or email addresses to verify the parents' current contact information.
 - v. If District is unable to reach parents whose student no longer attends a school in the District, the District will be excused from delivering compensatory services for that student, provided that District diligently

attempts to reach parents and documents such efforts consistent with 34 C.F.R. § 300.322(d). A determination that District diligently attempted to contact parents whose student no longer attends a District school, and should thus be excused from providing compensatory services, rests solely with the CDE.

- e. By **Monday, February 23, 2026**, parents of Students shall provide written consent for the provision of compensatory services to District. If Parents do not provide written consent for services by this date, District will be excused from providing compensatory services.
 - i. By **Friday, February 27, 2026**, District shall provide the written consent forms to the CDE Special Education Monitoring and Technical Assistance Consultant.
- f. District shall schedule compensatory services in collaboration with each parent who has consented to compensatory services (“Consenting Parents”). The District shall submit the schedule of compensatory services to the CDE by **Monday, March 23, 2026**. The schedule shall include the full name(s) of the appropriately licensed provider(s) as well as the dates, times and durations of planned sessions.
 - i. If District and any Consenting Parent cannot agree to a schedule by **Monday, March 23, 2026**, District and that Consenting Parent must meet either in person or via video conference to resolve scheduling complications by **Monday, April 6, 2026** and submit the schedule by **Monday, April 13, 2026**.
 - ii. If District and any Consenting Parent cannot agree to a scheduled by **Monday, April 13, 2026**, District must submit to CDE all documentation evidencing diligent attempts to schedule the compensatory services in collaboration with that/those Consenting Parent(s), including but not limited to copies of correspondence sent to Consenting Parent(s) and any responses received (such as e-mails), contact logs (such as records of telephone calls made or attempted, and the results of those calls), and meeting notes, by **Monday, April 20, 2026**.
 - iii. By **Monday, April 27, 2026**, CDE will, in its sole discretion, either determine the schedule for compensatory services or determine that District is excused from providing the compensatory services.
- g. Consenting Parents may at any time opt out of some or all of the remaining compensatory services. In such case, the District shall submit evidence of Consenting Parents’ written request to opt out of the compensatory services.

- h. To verify that Students received the services required by this Decision, the District must submit logs to the CDE by **the second Monday of each month** until all compensatory services have been furnished. The name and title of the provider, as well as the date, the duration, and a brief description of the service must be included in the service log. Evidence that all compensatory services required by this decision have been furnished shall be provided no later than **Monday, November 9, 2026**
- i. Monthly consultation between the provider(s) delivering compensatory services and Director or the Director's Designee shall occur to evaluate Students' progress towards IEP goals and adjust instruction accordingly. The purpose of this consultation is to help ensure that compensatory services are designed and delivered to promote progress on IEP goals. District must submit documentation that these consultations have occurred by the second Monday of each month, once services begin, until all compensatory services have been furnished. Consultation logs must contain the name and title of the provider and the date, the duration, and a brief description of the consultation.
- j. These compensatory services will be in addition to any services Students currently receive, or will receive, that are designed to advance them toward IEP goals and objectives. The direct compensatory services must be provided to Students outside of the regular school day (such as before and/or after school, on weekends, or during school breaks) to ensure Students are not deprived of the instruction they are entitled to (including time in general education).
- k. If for any reason, including illness, Students are not available for any scheduled compensatory services, the District will be excused from providing the service scheduled for that session. If for any reason the District fails to provide a scheduled compensatory session, the District will not be excused from providing the scheduled service and must immediately schedule a make-up session in consultation with the Consenting Parent, as well as notify the CDE of the change in the log.

3. Written Procedure

- a. By **Monday, February 2, 2026**, District must submit a written procedure or guidance to ensure compliance with 34 C.F.R. §§ 300.156, 300.207 and ECEA Rule 3.04. At a minimum, the procedure must offer clear guidance on the requirement for special education teachers to possess an appropriate endorsement or authorization prior to providing specially designed instruction without supervision from a properly credentialed special education teacher.

- b. District can submit existing procedure(s) that meet these requirements, but they must be submitted to CDE Special Education Monitoring and Technical Assistance Consultant for review and approval prior to being finalized.
- c. By **Monday, February 16, 2026**, CDE will review the District’s draft procedures, approve them contingent upon the District’s adopting CDE’s revisions, or reject the procedures with guidance to the District on how they must be corrected.
- d. By **Monday, March 2, 2026**, the District must ensure that a copy of the approved procedures have been given to the individuals who must review this decision listed above in Remedies § 1(a); all school and charter school principals (or the school’s equivalent of a principal); all special education teachers, including special education teachers in charter schools, all charter school network directors of special education, and each director of human resources within the District.
- e. If CDE has not approved the District’s draft procedures by Monday, March 2, 2026, CDE will order any further corrective actions that it deems necessary to fulfill the purposes of this subpart, Remedies § 3, in CDE’s sole discretion and according to CDE’s interpretation of the purposes of this subpart.
- f. To verify that the District has implemented and is following this procedure, District will, by the **second Monday of each month**—beginning Monday, April 13, 2026 and continuing to and including Monday, November 9, 2026—submit monthly reports to CDE Special Education Monitoring and Technical Assistance Consultant which identify all new District special education teachers (including contract, temporary, and substitute positions) hired by District during the previous month, and describing the licensure status of each.

NOTE: CDE Special Education Monitoring and Technical Assistance Consultant will contact District with specific instructions for securely submitting the documentation detailed above. The CDE will approve or request revisions that support compliance with the CAP. After approval of the CAP, the CDE will arrange to conduct verification activities to confirm District’s timely correction of the areas of noncompliance. 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 any 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 2nd day of December, 2025.

A handwritten signature in blue ink, appearing to read "Nick Butler", written in a cursive style.

Nick Butler
State Complaints Officer

APPENDIX

Complaint, pages 1-7

- Exhibit 1: Various documents supporting Complaint
- Exhibit 2: Photographs of Student A's AFO braces

Response, pages 1-13

- Exhibit A: Student A's IEPs
- Exhibit B: Student A's Evaluations and Assessments
- Exhibit C: PWNs
- Exhibit D: Meeting Documentation
- Exhibit E: Service Logs
- Exhibit F: Attendance Reports
- Exhibit G: Report Cards and Progress Monitoring
- Exhibit H: Documentation of Licensures and Certifications
- Exhibit I: District Calendar
- Exhibit J: n/a
- Exhibit K: District Policies and Procedures
- Exhibit L: Correspondence
- Exhibit M: List of staff with knowledge related to the Complaint
- Exhibit N: Verification of delivery of Response
- Exhibit O: Student A's Health Care Plan
- Exhibit P: Attendance Records for Students B through I
- Exhibit Q: IEPs for Students B through I
- Exhibit R: Service Logs for Students B through I
- Exhibit S: Report Cards and Progress Monitoring for Students B through I

CDE Exhibits

- CDE Exhibit 1: Interventionist Licensure
- CDE Exhibit 2: Teacher Licensure
- CDE Exhibit 3: Email from District
- CDE Exhibit 4: New ILC Teacher Licensure
- CDE Exhibit 5: Description of District Instructional Settings
- CDE Exhibit 6: List of Students

Telephone Interviews

- Parents: October 24, 2025
- Coordinator: October 27, 2025
- Interventionist: October 27, 2025

- General Education Teacher: October 28, 2025
- Director: October 27, 2025