

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

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**State Complaint SC2025-644**  
**Jefferson County Public Schools**

**DECISION**

**INTRODUCTION**

On December 5, 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 Jefferson County Public Schools (“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 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 December 5, 2024. Information prior to that date may be considered to fully investigate all allegations.

**SUMMARY OF COMPLAINT ALLEGATIONS**

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

1. District did not reevaluate Student after Parent requested a reevaluation in December 2024, as required by 34 C.F.R. § 300.303(a).

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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.

2. District did not provide Parent with written notice within a reasonable time period of its proposed or refused actions regarding the provision of FAPE, as required by 34 C.F.R. § 300.503, specifically related to its determination of Student’s eligibility for special education and related services in December 2024.
3. District did not consider the results of an independent educational evaluation which meets agency criteria in decisions made with respect to the provision of FAPE to Student from May 2025 through present, as required by 34 C.F.R. § 300.502(c)(1).

### **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 twelve years old and attends a District charter school in seventh grade. *Complaint; Exhibit A*, p. 1. He is eligible for special education and related services under the disability category Speech or Language Impairment. *Exhibit A*, p. 1.
2. Student is kind, easygoing, and passionate about his interests. *Interviews with Parent and Student’s speech-language pathologist (“Case Manager”); Exhibit A*, p. 3. Student loves computers, animals, and cooking, and he has enjoyed participating in an advanced math class this year. *Id.*
3. This investigation involves Student’s IEP (“the IEP”), which was developed at an IEP meeting on December 19, 2024. *Exhibit A*, p. 1. Student’s initial eligibility determination took place in December 2023. *Id.* Parent’s Complaint alleges that District did not re-evaluate Student or provide prior written notice following the December 2024 IEP meeting, and that District did not appropriately consider the results of an IEE obtained in May 2025. *Complaint*, pp. 1-3.

#### **B. The IEP**

4. The IEP describes Student’s present levels of academic achievement and functional performance, including a description of Student’s strengths and interests, a review of his academic performance and progress toward IEP goals, a description of the impact of Student’s disability, and input from Parents and teachers. *Exhibit A* at pp. 3-6.
5. The IEP’s Consideration of Special Factors section notes that Student does not require services related to any of the listed factors. *Id.* at p. 7.

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

6. The IEP contains one annual goal in communication, measuring Student's ability to engage in shared conversations with peers. *Id.* at pp. 7-8.
7. The IEP identifies 10 accommodations as necessary for Student to access general education. *Id.* at p. 8.
8. The IEP identifies that Student will be provided 120 minutes per month of direct speech-language therapy and 15 minutes per month of indirect speech-language therapy. *Id.* at p. 11.
9. The IEP states that the IEP team determined that it was appropriate that Student be in the general education classroom at least 80% of the time. *Id.* at p. 12.
10. The IEP includes a Prior Written Notice ("PWN") providing information related to decisions made at the IEP meeting. *Id.* at pp. 12-13. The PWN contains discussion of a proposed self-advocacy goal, a proposal for additional sensory supports for Student, and a summary of the team's discussion regarding Student's medical diagnosis of autism. *Id.* This paragraph reads:

[Student] has a medical diagnosis of autism. The school team does not have record of this new diagnosis. ASD eligibility was previously considered by the school in December of 2023 and was not found to be eligible at that time. Should the family provide the school with this report, the school team will review the report and consider the differences between the outside report and the school report and will present next steps.

*Id.* at p. 12. The PWN also includes a statement that "[p]arents of a child with a disability have protection under the procedural safeguards," and describes that parents may obtain a copy of the procedural safeguards and seek assistance in understanding the safeguards by contacting Case Manager. *Id.*

### **C. District's Practices, Procedures and Policies**

11. District's assistant director of special education ("Assistant Director") described District's expectations regarding District staff's knowledge of, and compliance with, IDEA and ECEA requirements. *Interview with Assistant Director.* Assistant Director described that she regularly meets with school special education teams to ensure that staff are aware of their obligations, and that District offers professional development training on compliance issues facing school teams. *Id.*
12. Assistant Director stated that when a parent requests that their student be re-evaluated outside of the required triennial re-evaluation, members of the student's IEP team should try to learn more about the parent's concerns, clarify the scope and nature of the re-evaluation requested, and inquire whether the parent has additional information regarding the student's needs that can be shared with the District. *Id.* Following this discussion, Assistant

Director stated that the team should develop a form seeking parental consent to proceed with the appropriate assessments. *Id.*

13. Assistant Director described that, due to ECEA Rule 4.02(6)(c)'s requirement that any changes in disability or eligibility only occur following a re-evaluation, consent to evaluate should also be obtained prior to any meeting in which the team will consider a change to a student's eligibility or disability category. *Id.*
14. Assistant Director stated that whenever District proposes an action related to the provision of FAPE, or refuses a parent's proposal for such an action, District should provide a PWN which describes the proposal and the reasons the proposal was accepted or refused. *Id.*
15. Assistant Director stated that when a parent requests an independent educational evaluation ("IEE"), District will work with the parent to identify an outside evaluator or evaluators whose qualifications meet District's criteria for evaluators. *Id.* Once the evaluation has been completed and provided to District, the IEP team must carefully review the IEE and should carefully consider the results of the IEE alongside other information about the student when making any decisions related to the student's eligibility, identification, or IEP development. *Id.*

#### **D. The December 2024 IEP Meeting**

16. On December 14, 2023, District determined Student eligible for special education and related services under the disability category of speech or language impairment. *Exhibit B-1*, pp. 22-24. The multidisciplinary team considered but ultimately concluded that Student did not qualify under the additional category of autism. *Id.* at p. 23.
17. On December 19, 2024, Student's IEP team—including Parent, parent's advocate ("Advocate"), Assistant Director, Case Manager, a special education teacher, two of Student's general education teachers, and an assistant principal—convened for an annual IEP team meeting. *Exhibit A*, pp. 2, 14-17; *Exhibit 1*, pp. 123-142.
18. Over the course of the meeting, the IEP team reviewed Student's previous IEP and information related to Student's performance and developed a new IEP. *Id.*
19. While reviewing Student's progress on his previous IEP goals, Advocate raised questions regarding the IEP's 2023 determination that Student did not qualify under the autism category. *Exhibit 1*, p. 133. In response, Case Manager asked Parent whether she felt that Student's disability category needed to be addressed. *Id.*
20. Parent disclosed to the IEP team that during the year between the two meetings, Student had received a medical diagnosis of autism and asked that the team reconsider Student's autism eligibility considering that diagnosis. *Id.* Case Manager told Parent that District was not previously aware of Student's medical diagnosis. *Id.*

21. Assistant Director reviewed the factors that supported the multidisciplinary team's 2023 determination, and invited Parent to provide Student's medical diagnostic report to District, at which time the team could determine next steps. *Id.* She also stated that because the IEP team was unable to review that report, the team was not in possession of new information that would inform the team's decision-making with respect to eligibility determination. *Id.*
22. Following Assistant Director's invitation to provide the medical report to District, the team continued to review and develop Student's IEP and concluded the meeting. *Id.* at pp. 133-142. The day after the meeting was District's last day of school prior to the winter break. *Exhibit H.*
23. Following the meeting, District wrote a PWN, finalized the IEP and sent a copy to Parent. *Interviews with Case Manager and Assistant Director.*

#### **E. Parent's IEE Request**

24. On January 7, 2025, District's first day of school following the winter break, Parent wrote an email to Case Manager, stating, "I am formally requesting Independent Educational Evaluations (IEE) at public expense for my child." *Exhibit J*, p. 31. That day, Case Manager included Assistant Director on the email chain so that she could respond to the request. *Id.*
25. Over the following weeks, Assistant Director and Parent exchanged emails regarding the IEE process. *Id.* at pp. 21-33.
26. Assistant Director asked Parent to clarify whether she would like District to perform any of the evaluations requested, to which Parent responded, "we will be proceeding with an evaluator outside of the District of our choice." *Id.* at p. 25.
27. In a January 22, 2025 email, Parent stated that she would not be providing District with the medical diagnostic report identified in the December 2024 IEP meeting and would prefer to move forward based on the result of the IEE. *Id.*
28. On February 23, 2025, Assistant Director sent an email asking whether Parent had selected an evaluator to conduct the IEE, to which Advocate responded that Parent was still reviewing providers. *Id.* at p. 22.
29. On March 6, 2025, Parent emailed Assistant Director to inform District that she had selected an outside evaluation center ("Outside Evaluator") to conduct the IEE. *Id.* at p. 21. Assistant Director responded, stating that District would contact the proposed evaluator. *Id.*
30. On March 27, 2025, Assistant Director sent an email to Parent stating that District had contacted Outside Evaluator and confirmed that their qualifications, as well as the scope and the cost of the IEE, met District's criteria. *Id.* at p. 34.

31. Outside Evaluator administered assessments to Student on April 7, April 15, and April 17, 2025. *Exhibit B-2*, p. 1.
32. On April 8, 2025, Parent sent an email to Assistant Director conveying that the IEE report would be available the week of May 5 and requested a meeting for the following week. *Exhibit J*, p. 37. Parent and District scheduled an IEP meeting for May 12, 2025 at 8 a.m. *Exhibit C*, p. 3.
33. Outside Evaluator completed the IEE on May 5, 2025. *Exhibit B-2*, p. 1. Outside Evaluator attempted to send the report to Parent and Assistant Director, but due to a technical issue, Assistant Director did not receive the IEE until May 7. *Exhibit J*, p. 43; *Exhibit K*.
34. The IEE presented the results of assessments conducted by a clinical psychologist, a speech-language pathologist, and an occupational therapist, and evaluated Student in the cognitive, developmental, speech and language, occupational, academic, and social-emotional domains. *Exhibit B-2*, p. 1.
35. The IEE concludes by providing recommendations. *Id.* at pp. 55-62. The IEE's educational recommendations state that "[b]ased on the cumulative findings, it is recommended that his school team consider changings his primary disability as Autism Spectrum Disorder and his secondary disability as being identified as ADHD." *Id.* at p. 59.
36. On May 6, 2025, Parent and Advocate met with Outside Evaluator to review the IEE. *Interviews with Parent and Advocate*. Following that meeting, Parent sent an email to Outside Evaluator in which she requested several changes to the IEE, including the addition of information provided by Student. *Exhibit M*, pp. 44-45. Outside Evaluator responded, stating that they would conduct an additional interview with Student on May 9, 2025, and send Parent an updated version of the IEE during the weekend between that interview and the scheduled meeting on May 12. *Id.* at pp. 43-44.
37. Upon receiving the May 5 version of the IEE on May 7, 2025, District team members reviewed the IEE in anticipation of the May 12 meeting. *Interviews with Case Manager and Assistant Director*. Assistant Director and Case Manager prepared a spreadsheet comparing the results of assessments conducted as part of the IEE with the results of assessments conducted during Student's 2023 district evaluation. *Exhibit N*.
38. As of the start of the May 12, 2025, meeting, District had not received the updated IEE. *Interview with Assistant Director*.

#### **F. The May 2025 IEP Meeting**

39. At the outset of the May 12, 2025 meeting, Assistant Director noted that the IEE recommended that the IEP team reconsider Student's eligibility and disability categories. *Exhibit 1*, pp. 81-82; *Exhibit E-2*, 3:35-6:08. She asked Parent to provide consent for re-evaluation so that the IEP team could, if warranted, change Student's eligibility and disability.

*Id.* In response to a question from Advocate regarding the consent, she clarified that the consent would be for the IEP team to engage in a file review and discuss the results and recommendations of the IEE, and that Parent would not be required to consent to any additional assessments. *Id.*

40. Assistant Director sent Parent and Advocate a copy of the Prior Notice and Consent to Evaluate form as an attachment to an email at 8:03 a.m., shortly after the start of the meeting. *Exhibit J*, pp. 48-53. The form stated that the IEE requests that Student's disability categories be reconsidered, and that "[t]he IEE will be used as file review as the body of evidence." *Id.* at p. 51. The form also described in detail the assessments contained within the IEE as well as previous assessments conducted with Student. *Id.* at p. 52. The signature page of the form gives Parent the option to check a box stating that she consents to the re-evaluation, that she refuses to consent to the re-evaluation, or that she agrees that no additional evaluation data are needed. *Id.* at p. 53.
41. Once Parent and Advocate had reviewed the consent form, Advocate asked a few questions related to the scope and necessity of the consent. *Exhibit 1*, pp. 83-85; *Exhibit E-2* at 9:59-15:55. Parent stated that due to an issue with her computer's software, she would not be able to print, sign, and return the form until after the meeting. *Exhibit 1*, p. 84; *Exhibit E-2* at 13:50.
42. Approximately 16 minutes into the meeting, Assistant Director asked parent for her verbal consent to use the IEE in its entirety as the basis for a discussion of the reconsideration of Student's disability categories, to which Parent responded that she did consent. *Exhibit 1*, p. 85; *Exhibit E-2* at 15:55-16:30.
43. Following the Parent's provision of consent, the team began reviewing the IEE and discussing the results in the context of Student's eligibility criteria. *Exhibit 1*, pp. 85-91.
44. Approximately 38 minutes into the meeting, Parent referenced Student's self-report, which was added to the IEE following Parent's request on May 6, 2025. *Exhibit 1*, p. 91. Assistant Director stated that the version of the IEE they had been provided did not contain that information, leading the participants to realize that Parent had a more recent copy of the IEE than District had received. *Id.*
45. At 8:42 a.m., Parent sent Assistant Director a link to a copy of the updated IEE. *Exhibit 1*, p. 73. Assistant Director recommended adjourning the meeting for a short period of time to allow the District team to review the five pages of additional information before resuming the eligibility conversation. *Id.* at pp. 93-94.
46. Parent responded that she would prefer to end the meeting and reconvene at a future date. *Id.* at pp. 92-93. Advocate recommended that it might be helpful to hold the meeting at the start of the next school year, so that Student's new teachers could share their observations and participate in the conversation. *Id.* at p. 95.

47. Following further discussion, the team agreed to reconvene the meeting between September 19 and October 1, 2025. *Id.* at p. 97. Assistant Director stated that she would re-issue the consent to evaluate discussed earlier in the meeting in August so that it would be timely for the new meeting. *Id.*

### **G. The 2025-2026 School Year**

48. On August 7, 2025, Assistant Director sent an email to Parent to reinitiate the discussion of reconsideration of Student’s eligibility, and to provide a new Prior Notice and Consent for Evaluation. *Exhibit J*, pp. 65-66. Assistant Director sent a follow up email on August 27, noting that Parent had not responded to the previous outreach. *Id.* at p. 65.

49. On August 27, 2025, Parent responded, stating that she would not consent to move forward with the reconsideration of Student’s eligibility because District had not yet clarified whether it would “accept” or “decline” the IEE recommendations. *Id.* at pp. 81-82.

50. On September 5, 2025, Assistant Director responded to Parent’s email, stating that District “has reviewed the IEE is ready to move forward in considering it as part of a reevaluation” and describing that the findings of the IEE would need to be discussed by the IEP team to determine the most appropriate educational plan. *Id.* at pp. 79-80.

51. Parent responded on September 10, stating, “[t]o date, the district has stated that the IEE has been reviewed by the IEP team, but has not provided a clear statement on whether the IEE findings are accepted or rejected,” asking for District to provide written documentation confirming “[w]hether the district accepts or rejects the IEE findings.” *Id.* at p. 79.

52. During Parent’s interview with the CDE, Advocate explained that it is her belief that IDEA requires that whenever a District receives an IEE, it must issue a clear statement explaining whether it will accept the IEE’s recommendations, reject the IEE’s recommendations, or accept some of the IEE’s recommendations but reject others. *Interviews with Parent and Advocate*. She stated that only after District has provided this statement may the IEP or eligibility team proceed to consider a student’s eligibility or disability categories<sup>4</sup>. *Id.*

53. Assistant Director and Parent continued to exchange emails from September 15 through October 7, with Parent continuing to state that she would not move forward without a statement from District accepting or rejecting the IEE, and Assistant Director describing that such a decision must take place in the context of an IEP meeting. *Exhibit J*, p. 73. On October

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<sup>4</sup> In addition, Advocate expressed concern regarding two related matters. First, she stated that she believed that it was improper for District to seek parental consent to proceed with the reconsideration of Student’s eligibility and disability category. *Interview with Advocate*. Second, she stated that it was her position that if Parent were to sign the consent form and agree that no further assessments were needed in order to proceed to the reconsideration, Parent would waive her rights to request a reevaluation in the future under 34 C.F.R. § 300.303. *Id.* District disagrees with both positions. *Interview with Assistant Director*. Although these disagreements do not directly bear on the allegations accepted for investigation in this matter, they may impede the ability of the parties to proceed with Student’s eligibility process, and will be addressed in the Conclusions of Law.

20, 2025, Parent stated that she had to attend to other life events and would reach out later to resume the discussion. *Id.* at p. 73.

54. On November 21, 2025, Assistant Director sent another email, noting that Student was due for his annual review, and requesting an IEP meeting on either December 17, 18, or 19, 2025. *Id.* at p. 72. Parent stated that she “will not be able to commit to any of the proposed meeting dates in December.” *Exhibit O.*

55. District scheduled a meeting for January 20, 2026. *Id.* Parent asked that the January 2026 meeting be postponed due to this Complaint. *Id.* As of the date of this Decision, District and Parent have not held a meeting since May 12, 2025. *Interviews with Assistant Director and Parent.*

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: Parent requested an IEE at public expense, not a reevaluation. Accordingly, District was not required to comply with 34 C.F.R. § 300.303. District, in response to the request for an IEE at public expense, provided the IEE consistent with 34 C.F.R. § 300.502. District complied with IDEA.**

Parent’s concern is that District did not initiate a reevaluation following her request to reconsider Student’s eligibility and disability categories at the IEP meeting on December 19, 2024. (FF #s 3, 20.)

#### **A. Obligation to Re-Evaluate**

Districts must ensure that a reevaluation of a child with a disability is conducted if “the child’s parent or teacher requests a reevaluation.” 34 C.F.R. § 300.303(a)(2). Reevaluations cannot occur more than once a year, unless the parent and district agree otherwise, and reevaluations must occur at least once every three years, unless the parent and district agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303(b). However, districts must honor a parental request to reevaluate a student where the most recent reevaluation is more than one year old. *G.W. v. Boulder Valley Sch. Dist.*, 2019 WL 4464130, at \*12 (D. Colo. Sept. 18, 2019) (holding that the district was obligated to reevaluate the student upon parental request because the most recent reevaluation was then one year old).

#### **B. Parent’s Requests and District’s Response**

Here, during the December 19, 2024, IEP meeting, Parent and Advocate raised questions related to Student’s 2023 determination that he did not qualify under the disability category of autism. (FF # 19.) When asked if she felt that Student’s disability category should be reconsidered, Parent disclosed that during the year since his initial determination, he had received a medical diagnosis of autism and should be reconsidered considering that information. (FF # 20.) District was

previously unaware of this diagnosis, and Assistant Director asked Parent to provide District with the report so that they could take appropriate steps considering the new information. (FF # 20-21.) The IEP team completed the meeting, District issued a PWN describing the team’s plans for assessing Student’s eligibility, and District’s winter break started the next day. (FF #s 10, 22-23.)

On the next District school day after break, Parent sent an email to District requesting an IEE. (FF # 24.) Assistant Director sought to clarify whether Parent was seeking a District evaluation, and Parent confirmed that she would “be proceeding with an evaluator outside of the District.” (FF # 26.) Parent also specified that she would not be providing District with a copy of Student’s medical diagnosis and would proceed with reconsidering Student’s disability category considering the results of the IEE. (FF # 28.) District proceeded to work with Parent to approve and arrange for an IEE, which was completed in May 2025. (FF #s 24-38.)

While the Record shows that Parent expressed interest in reconsidering Student’s eligibility and disability category at the December 2024 IEP meeting, Parent clarified in her next communication with District, two business days later, that she was seeking an IEE and not a reevaluation. (FF # 24.) When asked whether she would like for a District evaluator to evaluate Student, Parent was explicit that she was seeking an outside evaluation. (FF # 26.) For these reasons, the CDE finds and concludes that Parent did not request a reevaluation. Accordingly, District was not required to comply with 34 C.F.R. § 300.303.

Although Parent’s request for an IEE falls outside the scope of this investigation, it is closely related to the accepted allegation given that Parent did not request a reevaluation. Thus, “some clarification on this issue may assist the parties moving forward.” *Denver Public Schools*, 124 LRP 34289 (SEA CO 8/13/24). When a parent requests an IEE, the district must either ensure that the IEE is completed at public expense or file a due process complaint seeking to request a hearing to show that the district’s evaluation is appropriate. 34 C.F.R. § 300.503(b)(2). In this case, District provided the IEE at public expense, and the IEE was completed in May 2025. (FF #s 24-38.) For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.502.

**Conclusion to Allegation No. 2: District provided prior written notice documenting the decisions made related to eligibility determination during the December 2024 IEP meeting consistent with the requirements of 34 C.F.R. § 300.503. District complied with the IDEA.**

Parent alleges that District did not provide PWN following the December 19, 2024, IEP meeting. (FF # 3).

#### **A. Legal Requirements for PWN**

A district must provide PWN whenever it proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, or when it refuses to take any of those actions. 34 C.F.R. § 300.503(a). A district may provide PWN by attaching the notice to the IEP, so long as the PWN is otherwise compliant with the requirements

of 34 C.F.R. § 300.503. *See, e.g., El Paso County Sch. Dist. 2*, 113 LRP 44602 (SEA CO 8/15/13); *Santa Fe Trail BOCES*, 125 LRP 21684 (SEA CO 6/20/25).

PWN must be issued a reasonable time before a district proposes or refuses to change “the educational placement of the child or the provision of FAPE to the child.” 34 C.F.R. § 300.503(a). PWN must include: (1) a description of the action proposed or refused by the district; (2) an explanation of why the district proposes or refuses to take the action; (3) a description of each evaluation procedure, assessment, record, or report used by the district as a basis for the action; (4) a statement that the parents of a child with a disability have protections under the procedural safeguards, and the means by which a copy of a description of the procedural safeguards can be obtained; (5) sources for parents to contact to obtain assistance in understanding the information; (6) a description of other options the IEP team considered and the reasons why those options were rejected; and (7) a description of any other factors relevant to the district’s proposal or refusal. 34 C.F.R. § 300.503(b)(1-7). The notice must be “written in language understandable to the general public.” *Id.* at § 300.503(c).

### **B. District’s PWN Complied with the Law**

Here, as an initial matter, Parent’s contention that District did not provide PWN following the December 2024 IEP meeting is not supported by the Record—the PWN appears in the IEP that Parent included among the Exhibits provided with her Complaint. That the PWN is attached to the IEP does not render it invalid, so long as it contains the components required by 34 C.F.R. § 300.503. *See El Paso County Sch. Dist. 2*.

District attached a PWN to the IEP addressing the decisions made during the IEP meeting on December 19, 2024. (FF # 10). The PWN contained discussion of a goal proposed during the meeting, the proposal to provide additional sensory supports to Student, and, relevant to this investigation, a summary of the team’s discussion related to Student’s eligibility under the disability category of autism. *Id.*

The PWN noted that Student received a medical diagnosis of autism, but that District had not yet received records related to that diagnosis. *Id.* It noted that Student had previously been determined not to qualify under the autism category during his 2023 eligibility meeting. *Id.* And it stated that should Parent provide District with the diagnostic report, the team would carefully review that report and take appropriate action. *Id.* In addition, the PWN contained language noting that the parents of a child with a disability have protections under the procedural safeguards, described how Parent can obtain a copy of the procedural safeguards, and directs Parent to seek assistance in understanding the procedural safeguards by contacting Case Manager. *Id.*

The PWN describes the action proposed by District—it states that District will move forward with consideration of Student’s eligibility category once the IEP team has had the opportunity to review Student’s medical diagnosis. (FF # 10). It explains why District is choosing this course of action—because it had not had the chance to review this new information related to Student’s

medical diagnosis. *Id.* It describes the procedures, records, assessments and reports relied upon to make the determination—noting that Student has received a medical diagnosis and that Student’s 2023 evaluation and eligibility process determined that he was not eligible under the autism category. *Id.* It provided Parent with information regarding the procedural safeguards—telling them that they had protections under the safeguards, telling them how to obtain a copy, and directing them to Case Manager for questions. It addressed other options—Parent could choose not to share the new information, and District would need to rely on its previous evaluation. *Id.*

District’s PWN, though brief, was written in plain language, and clearly articulated District’s proposed course of action so that Parent could make informed decisions regarding how she could participate in the IEP process. And Parent did participate in that process—requesting an IEE and continuing with the identification process. (FF #s 24-55.)

For these reasons, the CDE finds and concludes that the PWN provided by District to Parent regarding determinations related to Student’s eligibility at the December 19, 2024, IEP meeting complied with 34 C.F.R. § 300.503.

**Conclusion to Allegation No. 3: District considered, as necessary, the results of Student’s May 2025 IEE during decisions made with respect to the provision of FAPE, consistent with 34 C.F.R. § 300.502(c)(1).**

Parent alleges that District did not consider the results of Student’s May 2025 IEE, specifically because District did not articulate, prior to a meeting to consider Student’s eligibility and disability categories, whether it planned to accept or reject the IEE recommendations. (FF #s 3, 49-52.)

**A. Requirement to Consider IEE**

If a parent obtains an IEE, the school district must consider the results of the IEE “in any decision made with respect to the provision of FAPE to the child.” 34 C.F.R. § 300.502(c). Though a school district must consider the results of an IEE, the district is not obligated to accept the evaluator’s recommendations or conclusions. *T.S. v. Bd. of Educ. of the Town of Ridgefield*, 10 F.3d (2d Cir. 1993); *G.D. v. Westmoreland Sch. Dist.*, 17 IDELR 751 (1st Cir. 1991).

When making decisions with respect to the provision of FAPE, a district must ensure that parents are afforded the opportunity to participate in decisions related to their student’s educational decisions. 34 C.F.R. § 300.501. Specifically, district IEP team members must enter an IEP team meeting with an open mind and meaningfully consider the parents’ input. *See, e.g., H.B. v. Las Virgenes Unified Sch. Dist.*, 109 LRP 24785 (C. D. Cal. 2008). To unilaterally make such a decision prior to a meeting is predetermination and is prohibited by IDEA. *Id.*

**B. The IEE Process and District’s Actions**

Here, Parent requested an IEE on January 7, 2025. (FF # 24.) District provided Parent with information regarding the IEE process, and asked Parent clarifying questions to ensure the process was responsive to her concerns. (FF #s 25-28.) On March 6, 2025, Parent identified Outside Evaluator as the IEE provider, and District contacted Outside Evaluator to discuss the proposed IEE. (FF # 29.) On March 27, 2025, District indicated that Outside Evaluator met its criteria, and that there was an agreement on the scope and cost of the IEE, formally accepting Parent's request for an IEE and choice of evaluator. (FF # 30.) Outside Evaluator assessed Student and completed an initial version of the IEE on May 5, 2025, although District did not receive that version until May 7, 2025. (FF #s 31-33.)

The IEE's primary educational recommendation was that the IEP team consider changing Student's disability categories to include autism as the primary category and to add an additional category based on Student's ADHD. (FF # 35.) Upon receiving the IEE, District team members carefully reviewed the report and recorded their findings into a spreadsheet comparing the IEE's conclusions to District's previous data related to Student. (FF # 37.)

The IEP team convened on May 12, 2025, and following Parent's provision of consent to reconsider Student's disability categories, the team began reviewing the report together and discussing questions related to those categories. (FF # 39-43.) About 20 minutes into that discussion, Parent indicated that the version of the IEE that she was referencing was an updated version she had requested from Outside Evaluator, containing five pages of additional input from Student, which had been completed days before the meeting and which District had not received. (FF #s 36, 44-45.) Parent sent a copy to District during the meeting but asked that the meeting be adjourned and reconvened during the next school year. (FF #s 45-47.) The meeting ended without making changes to Student's disability categories. (FF # 47.)

In August, Assistant Director reached out to Parent to reconvene the IEP team and proceed with the consideration of changes to Student's disability categories the IEE had recommended. (FF #s 48-49.) Over the course of the 2025-2026 school year, Parent refused to reconvene the meeting, asserting that she would only do so if District "provided a clear statement on whether the IEE findings are accepted or rejected." (FF #s 49, 51-55.) District continued to propose IEP meetings, and Parent, to date, has not agreed to participate. (FF #s 53-55.) No meetings have been held since May 2025, and no changes to Student's eligibility or disability category have been made. (FF # 55.)

The Record shows that District reviewed the IEE and was prepared to discuss it at the May 12, 2025 meeting. However, following the disclosure that there was a newer version of the IEE that District had not yet received, Parent asked that the meeting end without making any determinations and reconvene in the fall. Although Parent consented to participate in the eligibility and disability category discussion at the May 2025 meeting, when District attempted to restart the conversation in August, Parent refused, on the basis that she and her Advocate believed that District must clearly state whether it would accept or decline the IEE report's recommendation prior to the IEP team convening to discuss the matter.

Advocate's position on this matter is not supported by IDEA. The IDEA regulation related to IEEs requires that a district consider the results of an IEE in any decision made with respect to the provision of FAPE to the child but does not state that the District must "accept" or "reject" the recommendations of the IEE prior to the meeting at which the proposals are to be discussed. *See generally*, 34 C.F.R. § 300.503. It requires that a district either ensure that the IEE is conducted at public expense or file a due process complaint to request a hearing to show that the district's evaluation is appropriate. 34 C.F.R. § 300.503(b)(2). It also specifies that a district may require an outside evaluator for an IEE at public expense meet the criteria that the district would impose on its own evaluations, including the location of the evaluation and the qualifications of the examiner. 34 C.F.R. § 300.503(e). Here, District complied with both of those requirements. It conducted the IEE at public expense, and it examined Outside Evaluator's qualifications and approved them to conduct the IEE. (FF #s 24-38.)

Advocate's position would seek to impose an additional requirement on the IEE process—that before the IEP or multidisciplinary team convenes to consider the recommendations of an IEE, a district must issue a statement indicating whether it will accept or reject those recommendations. If a district was to abide by Advocate's proposed requirements, it would make a decision regarding the eligibility of a student in a setting where Parent has no opportunity to provide meaningful input. Put simply, Advocate's position would require a school district to engage in predetermination, which results in noncompliance with the IDEA. *See H.B. v. Las Virgenes Unified Sch. Dist.* This position is "inconsistent with the collaborative process contemplated by the IDEA." *Denver Pub. Schs. Dist. 1*, 77 IDELR 266 (SEA CO 2020).

Here, District invited Parent to participate in a meeting at which the IEP team could, with Parent's participation, consider and discuss the IEE's recommendations. Because Parent declined to participate in such a meeting, District did not make any decisions with respect to the provision of FAPE to Student and thus did not have the opportunity to consider the IEE report as required by the IDEA regulations. Indeed, a parent who, through their own actions, prevents a school district from complying with a specific IDEA requirement cannot later claim that the school district did not meet that requirement. *See Boulder Valley School District RE-2*, 124 LRP 34351, (CO SEA 2023) (concluding that a parent whose actions prevented a district's ability to fully implement an IEP cannot complain that the IEP has not been implemented as written).

Based on these facts, CDE finds and concludes that District considered, as necessary, the results of Student's May 2025 IEE during decisions made with respect to the provision of FAPE, consistent with 34 C.F.R. § 300.502(c)(1).

### **C. Other Disagreements Between Parent and District**

Two additional factors limited the parties' progress toward considering Student's eligibility and disability category. First, Advocate and District disagreed regarding whether consent was required to proceed with a reconsideration of Student's eligibility and disability category. *Id.* Second, Advocate explained that it was her position that if Parent signed the consent to evaluate and agreed that no further assessments were needed to consider eligibility, Parent would waive

her rights under 34 C.F.R. § 300.303 to request a reevaluation in the future. *Id.* District’s position is that providing such consent would not limit Parent’s right to request a re-evaluation under IDEA. *Id.*

Although these issues are not material to the analysis of the allegations accepted for investigation, they are closely related and the CDE recognizes that this disagreement may impede the ability of the parties to proceed with Student’s eligibility determination following the issuance of this Decision. Thus, “some clarification on this issue may assist the parties moving forward.” *Denver Public Schools*, 124 LRP 34289 (SEA CO 8/13/24).

The ECEA rules governing changes to student eligibility and disability require that: “[a] change of disability and/or eligibility may only be made after reevaluation.” ECEA Rule 4.02(6). IDEA requires that a public agency “[m]ust obtain informed parental consent [...] prior to conducting any reevaluation of a child with a disability.” 34 C.F.R. § 300.300(c)(1)(i).

Accordingly, the CDE finds and concludes that District must, consistent with ECEA Rule 4.02(6), obtain parental consent prior to considering a change to Student’s eligibility or disability categories. The CDE also finds and concludes that Parent’s agreement to the consent form’s statement that “I agree that no additional evaluation data are needed” would not limit her right to request a reevaluation following the determination of Student’s eligibility and disability categories subject to IDEA’s rules at 34 C.F.R. § 300.303.

#### **D. District’s Obligation to Convene an IEP Meeting**

Finally, the Record shows that no meetings related to Student’s special education and related services have occurred since May 2025, and no IEP team decisions have been made since December 2024. (FF #s 16-55.) Notably, Student is overdue for an annual IEP review, and the results of his IEE have not been fully discussed at a meeting. *Id.* The CDE expects that this Decision will enable the parties to proceed with Student’s annual review and that the IEP team will develop special education services consistent with Student’s individual needs and IDEA.

If, however, disputes between Parent and District persist, it is District’s obligation to convene a meeting with or without the attendance and participation of Parent. The IDEA contemplates that an IEP meeting “may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend,” so long as the district keeps records of its attempts to arrange a meeting with the parent’s attendance. 34 C.F.R. § 300.322(d). The CDE recognizes a tension that can exist for school districts—especially in contentious situations—between affording meaningful parent participation and ensuring IDEA timelines are met. *See Doug C. v. Hi. Dep’t of Educ.*, 720 F.3d 1038, 1046 (9th Cir. 2013) (holding that when confronted with complying with one IDEA procedural requirement or another, school districts must make a reasonable determination of which course of action promotes the central purpose of the IDEA, which is “to provide disabled students a free appropriate public education and to protect the educational rights of those students”). The CDE encourages both parties to cooperate to schedule

a meeting as soon as practicable and reminds the parties that disagreements between parents and districts must not prevent students from receiving a FAPE.

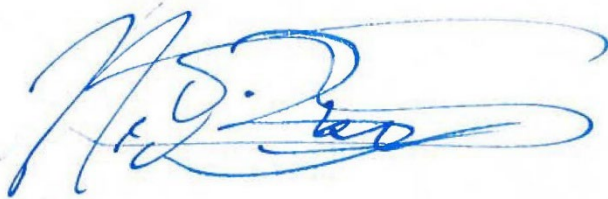
**REMEDIES**

The CDE concludes that District complied with IDEA and ECEA. Accordingly, no remedies are ordered.

**CONCLUSION**

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

Dated this 3rd day of February, 2026.

A handwritten signature in blue ink, appearing to be 'N. Butler', written in a cursive style.

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Nick Butler  
State Complaints Officer

## APPENDIX

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

- Exhibit 1: Various documents supporting the Complaint

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

- Exhibit A: IEPs
- Exhibit B: Evaluations
- Exhibit C: Notices of Meetings
- Exhibit D: PWNs
- Exhibit E: Documentation and recordings of meetings
- Exhibit F: Attendance, Schedule and Report Cards
- Exhibit G: Progress Reports
- Exhibit H: District Calendar
- Exhibit I: District Policies and Procedures
- Exhibit J: Correspondence
- Exhibit K: Individuals with knowledge relevant to the Complaint
- Exhibit L: n/a
- Exhibit M: Correspondence Regarding Outside Evaluation
- Exhibit N: Spreadsheet Comparing IEE and District Evaluation
- Exhibit O: Correspondence Regarding Scheduling of Meetings

### **Reply, pages 1-5**

### **Telephone Interviews**

- Parent: January 9, 2026
- Advocate: January 9, 2026
- Case Manager: January 12, 2026
- Assistant Director: January 12, 2026