

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

**State-Level Complaint 2020:538
Arapahoe County School District 6**

DECISION

INTRODUCTION

On December 3, 2020, the parents (“Parents”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state-level complaint (“Complaint”) against Arapahoe County School District 6 (“District”). The State Complaints Officer (“SCO”) determined that the Complaint identified four (4) allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153. Therefore, the SCO has jurisdiction to resolve the Complaint.

On January 6, 2021, upon the agreement of both parties, the SCO extended the 60-day investigation timeline to allow the parties to participate in mediation. However, mediation resulted in impasse and, on February 6, 2021, the SCO resumed the investigation.

RELEVANT TIME PERIOD

Pursuant to 34 C.F.R. §300.153(c), the Colorado Department of Education (“CDE”) has the authority to investigate alleged violations that occurred not more than one year from the date the original complaint was filed. Accordingly, this investigation will be limited to the period of time from December 3, 2019 through December 3, 2020 for the purpose of determining if a violation of IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations. Findings of noncompliance, if any, shall be limited to one year prior to the date of the Complaint.

SUMMARY OF COMPLAINT ALLEGATIONS

Whether Student was denied a Free Appropriate Public Education (“FAPE”) because the District:

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.

1. Failed to make reasonable efforts to obtain parental consent for an initial evaluation of Student, from December 3, 2019 to January 10, 2020, consistent with 34 C.F.R. §§ 300.300(a) and 300.301;
2. Failed to conduct a comprehensive initial evaluation of Student from January 10, 2020 to present, specifically as follows:
 - a. Failed to evaluate Student in all areas of suspected disability, consistent with 34 C.F.R. § 300.304(c)(4);
 - b. Failed to consider information provided by Parents, consistent with 34 C.F.R. § 300.305(a)(1)(i);
3. Unnecessarily delayed the provision of an Independent Educational Evaluation (“IEE”) at public expense following Parents’ request on or about March 2, 2020, in violation of 34 C.F.R. § 300.502(b)(2); and
4. Failed to consider the results of an IEE conducted in May of 2020 while developing Student’s Individualized Education Program (“IEP”), consistent with 34 C.F.R. § 300.502(c)(1).

FINDINGS OF FACT

After thorough and careful analysis of the entire record,² the SCO makes the following FINDINGS:

A. Background

1. Student attends third grade at a District elementary school (“School”). *Exhibit A*, p. 3. Student is currently eligible for special education and related services under the Specific Learning Disability (“SLD”) category. *Exhibit G*, p. 1; *Interview with Special Education Coordinator*.
2. Student is a sweet and cooperative child with many friends, and she gets along with peers and teachers. *Interviews with Parents and Special Education Coordinator*. Student is creative and hardworking, and she enjoys drawing and doing arts and crafts at home. *Interviews with Parents, Special Education Coordinator, and Former Special Education Teacher (“Special Education Teacher”)*; *Exhibit B*, p. 50.
3. Student’s greatest academic challenges center on basic reading, writing, and math skills, as well as handwriting and executive functioning. *Interviews with Parents and Special*

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

Education Coordinator. At home, Student struggles with anxiety and can be sensitive to negative feedback. *Interview with Parents*.

4. By the end of first grade, the 2018-2019 academic year, Student was behind in basic reading and writing skills despite receiving weekly interventions in reading from School's Student Intervention Team ("SIT"). *Interviews with Parents and Special Education Teacher*. At home, Parents observed Student to frequently complain of anxiety, fatigue, and stomach aches in association with School. *Interviews with Parents and Special Education Teacher*. However, anxiety, fatigue, and stomach aches were not observed in the school setting. *Id.*
5. At the start of second grade, the 2019-2020 academic year, Parents expressed concern to Second Grade Teacher about Student's academic performance and inquired about options for support. *Interview with Parents*. Second Grade Teacher told Parents she would email the SIT and organize a meeting. *Id.*
6. On September 16, 2019, Parents emailed First Grade Teacher, Second Grade Teacher, School Counselor, and Principal regarding their concerns about Student's academic performance. *Exhibit 2*, p. 1. Parents informed Principal that Student was a school year behind academically and wrote, "[w]e believe that [Student] needs to be assess[ed] for a learning issue so we can help with her ability to learn and retain [sic] information." *Id.* at p. 1. Parents also notified Principal by email on September 24, 2019 that School Counselor said it might "be helpful to assess [Student] for something like dyslexia." *Id.* at p. 5.
7. Principal responded to Parents' September 16, 2019 email by indicating she would contact the SIT to schedule a meeting and discuss Student's data. *Exhibit 2*, p. 3.
8. Parents and District staff met on October 3, 2019 to discuss Parents' concerns. *Interviews with Parents and Principal*. Parents expressed interest in supports for Student and inquired about assessments. *Interview with Parents*. The District created new interventions for Student, to include writing support in the classroom and direct support for writing letters. *Interview with Principal; Exhibit B*, p. 24.
9. On November 22, 2019, Parents met with District staff to discuss Student's progress. *Interviews with Parents and Principal*. Despite receiving interventions in reading and writing, Student had not shown adequate growth, especially in the areas of written language and reading. *Exhibit 5*, p. 1. As a result, the District decided to refer Student to be evaluated for special education and related services. *Interviews with Parents and Principal; Exhibit 5*, p. 1.

B. Consent for Initial Evaluation

10. Due to a holiday break, School was not in session from November 23, 2019 through December 3, 2019. *Interview with Principal*. From December 4, 2019 to December 16,

2019, the District took no steps to obtain consent for the special education evaluation from Parents. *Interview with Parents*.

11. On December 16, 2019, Parents emailed Principal to inquire about testing, as consent for the evaluation had not been provided. *Exhibit 3*, p. 17. Principal apologized, indicating the referral team had not met in several weeks due to scheduling conflicts and that the District would move forward with the referral for an evaluation. *Id.*
12. On December 17, 2019, School Psychologist emailed Parents regarding an evaluation. *Id.* at p. 18. School Psychologist wrote that the District would “be sending home the parental consent form when we return from Holiday Break so that we can get started right away.” *Id.* School Psychologist added that this “time of year is very tricky for evaluations due to the 3 weeks off during Thanksgiving break and winter break so in order to do a thorough and comprehensive evaluation, it would be best to begin after these breaks so that we don’t lose half of our 60 day window.” *Id.*
13. The District’s position is that this email from School Psychologist was merely a suggestion and that “Parents did not express any disagreement with that course of action.” *Response*, p. 2. The SCO, however, finds that Parents reasonably did not interpret the email as a suggestion or feel as though they had the option to disagree. *Interview with Parents*.
14. Due to a holiday break, School was not in session from December 21, 2019 through January 6, 2020. *Interview with Principal*. District provided a consent form to Parents on January 7, 2020. *Exhibit 3*, p. 19. The District concedes consent could have been provided earlier, and that the delay in this case is not in conformity with District standards. *Response*, p. 2-3. Staff reported that the District requires consent for initial evaluations to be obtained promptly after the referral for an evaluation is made. *Interviews with Special Education Director, Principal, and Special Education Coordinator*.
15. Special Education Director said the District frequently trains staff regarding special education referrals, and that District policy does not direct staff to wait until after holiday breaks to obtain consent. *Interview with Special Education Director*. District’s written policies do not address the timing of obtaining consent for an evaluation or provide guidance for obtaining consent specifically in relation to holiday breaks. *Exhibit M*, pp. 19-22, 24.
16. Parents signed consent for the evaluation on January 8, 2020. *Exhibit E*, p. 4. At that time, Student’s academic performance concerns centered on levels of performance in basic reading, writing, and math. *Interviews with Principal, Special Education Coordinator, and Special Education Teacher*. Parents were also concerned about anxiety, fatigue, and frequent stomach aches in connection with School, but these had not been observed by educators in the school-setting. *Interviews with Parents, Special Education Coordinator, and*

Special Education Teacher. Consequently, Student was evaluated in the areas of general intelligence, academic achievement, and motor ability. *Exhibit E*, p. 1.

C. The Initial Evaluation

17. Student was administered the Weschler Intelligence Scale for Children, Fifth Edition (“WISC-V”) during two testing sessions on January 17, 2020 and January 21, 2020. *Exhibit 9*, p. 1. The WISC-V is an individually administered, comprehensive clinical instrument for assessing the intelligence of children. *Id.* Student scored in the low average range in Similarities and Information, in the high average range on Visual Spatial Reasoning, in the low average range in Digit Span, in the above average range in Picture Span, and in the high average range in Processing Speed. *Id.* at pp. 1-2, 13. WISC-V results indicated Student had a language-based weakness. *Exhibit B*, p. 11.
18. To evaluate academic performance, Student was administered the Weschler Individual Achievement Test Third Edition (“WIAT-III”) by Special Education Teacher on January 9, 2020. *Exhibit 9*, p. 4. Special Education Teacher also conducted a review of Student’s School records concerning universal testing and interventions, and further completed classroom observations of Student. *Id.* On universal formalized and individualized diagnostic testing, Student was one year or more behind grade level in basic reading skills. *Exhibit I*, p. 6. WIAT-III results, records review, and observations indicated that Student required supports in basic writing to meet grade level. *Id.*
19. On January 17, 2020, Student was administered the Beery-Buktenica Developmental Test of Visual Motor Integration Sixth Edition (“VMI”) by Registered Occupational Therapist and Certified Occupational Therapy Assistant. *Exhibit 9*, p. 10. The VMI assesses the extent a child can integrate visual and motor abilities. *Id.* at p. 11. Student scored in the average range for visual motor integration, visual perception, and motor coordination. *Exhibit B*, pp. 48-49. Motor testing indicated Student had difficulty with writing (specifically reversals, alignment, and formation with certain letters and automaticity of writing). *Id.* at p. 49.
20. Overall, the initial evaluation indicated Student possessed average to high average cognitive abilities, and that Student’s ability to hold lengthy visual information in short-term memory and identify that information was a strength compared to other areas. *Id.* at p. 44. The initial evaluation further indicated that Student’s ability to hold visual information in short-term memory was much more developed than her ability to hold auditory information in her memory and recite back. *Id.*
21. The SCO finds that this initial evaluation in the areas of general intelligence, academic achievement, and motor ability was appropriate for Student based on the information known to the District at the time. *Interview with CDE Specialist 1*. CDE Specialist 1 reviewed the data and found that the assessments and associated methodology were likewise appropriate and sufficiently comprehensive to identify areas of suspected disability. *Id.*

22. Parents expressed some concern to District staff about anxiety and fatigue in the months leading up to the initial evaluation, but these were not observed in the academic setting. *Interviews with Special Education Teacher and Special Education Coordinator.*

D. February 11, 2020 Eligibility Determination

23. A properly constituted multidisciplinary team (“MDT”), including Parents, met on February 11, 2020 to determine Student’s eligibility for special education and related services. *Interview with Special Education Teacher; Exhibit I, p. 6.* After considering the evaluation results, the MDT found Student eligible under the SLD disability category. *Interviews with Special Education Teacher and Special Education Coordinator.*
24. Parents disagreed with the results of the evaluation and indicated they wanted additional testing for Social/Emotional Status and Health, in part because of their observations of anxiety and fatigue in relation to academics in the home setting. *Interviews with Parents and Special Education Coordinator.* Parents also informed the MDT that Student had a family history of Attention Deficit/Hyperactivity Disorder (“ADHD”) and expressed concerns that Student may have ADHD. *Id.*
25. The MDT agreed to conduct further evaluations in the areas requested by Parents. *Id.* Additional time remained in the 60-day evaluation timeframe, so the MDT planned to reconvene to discuss the additional assessments on a later date. *Id.*

E. Social/Emotional Status and Health Assessments

26. Starting on February 12, 2020, School Psychologist provided Student with a daily monitoring sheet to use in the classroom to track how often she was feeling anxious, as well as whether she was able to use coping strategies to reduce anxiety. *Exhibit B, pp. 38-39.* Student used the sheet for sixty-two “Subject Blocks” and indicated she felt “Okay” eighty-nine percent of the time, “A Little Worried” six percent of the time, “Worried or Nervous” two percent of the time, “Really Worried” three percent of the time, and “Freaking Out, Panic” none of the time. *Id.* at p. 39. Student rated herself as feeling “A Little Worried” to “Really Worried” while she was in “Number Corner,” a form of whole group instruction with less availability from the teacher to provide immediate support. *Id.* Student also rated herself as having increased anxiety during community time at the start of the morning, during specials, and during math instruction. *Id.*
27. On February 13, 2020, School Psychologist administered the Conners Rating Scales Third Edition (“CRS-3”). *Id.* at p. 35. The CRS-3 is an instrument that uses observer ratings to help assess ADHD and evaluate behavior in children and adolescents. *Id.* Student was administered the CRS-3 to determine whether difficulty with inattention significantly impacted her education. *Id.* Parent observations indicated concerns with inattention, learning problems, and executive functioning, while Second Grade Teacher only reported concerns in learning problems. *Id.* at p. 36.

28. On February 13, 2020, School Psychologist administered the Behavior Rating Inventory of Executive Functioning Second Edition (“BRIEF-2”). *Id.* at p. 37. The BRIEF-2 is a tool that uses observer ratings to identify possible areas of executive dysfunction. *Id.* Parents and Second Grade Teacher each provided ratings of Student’s executive functioning skills in behavioral and emotional regulation. *Id.* at p. 37. Student’s scores on the BRIEF-2 indicated a potentially elevated concern regarding emotional regulation and cognitive regulation in the home setting, but no concerns in the school setting. *Id.* at p. 38. Student’s scores for behavioral regulation were within the normal range for the school and home settings. *Id.*
29. On February 14, 2020, School Psychologist administered the Behavior Assessment System for Children Second Edition (“BASC-3”). *Id.* at p. 32. The BASC-3 is a norm-based rating scale designed to identify a variety of social and emotional disorders in children, using feedback from both parents and teachers. *Id.* at p. 33. Results of the BASC-3 indicated Student experienced anxiety at home, but not in the school setting. *Id.* at pp. 32-34, 48.
30. Student also completed the Beck Youth Inventories Second Edition (“BYI-2”) during a structured interview with School Psychologist on February 14, 2020. *Id.* at p. 34. The BYI-2 includes five inventories (Depression, Anxiety, Anger, Disrupted Behavior, and Self-Concept) containing questions regarding thoughts, feelings, and behaviors associated with emotional and social impairment. *Id.* Three of the five inventories (Self-Concept, Anxiety, and Depression) were administered to Student based on the types of concerns presented related to anxiety and self-esteem. *Id.* Student’s scores fell within the normal range in all three inventories in comparison to peers her age. *Id.* at p. 35.
31. In addition to the formal assessments, Student was observed in the general education setting by School Psychologist, School Counselor, and School Counseling Intern for a total of 100 minutes over five sessions. *Id.* at p. 40. The observations took place during a variety of activities including whole group instruction, small group activities, and independent work. *Id.* During the five sessions, Student was on-task an average of seventy-six percent of the time while peers were on-task an average of eighty-five percent of the time. *Id.* Most of Student’s off-task time occurred during independent work. *Id.*
32. Finally, School Nurse Consultant administered a health assessment on March 3, 2020 through conversations with Father regarding Student’s past health. *Id.* at p. 41. Although Student was diagnosed with a severe food allergy, she was otherwise healthy and met all developmental milestones within normal limits. *Id.* at pp. 41-42. Father informed School Nurse Consultant there was a family history of ADHD, but Father added that he did not necessarily notice attention issues with Student. *Id.* at p. 42. Father expressed concern about Student’s sensitivity to rejection and possible anxiety. *Id.*
33. CDE Specialist 1 reviewed the data and determined the assessments were reliable, technically sound, and appropriately tailored to Student’s perceived areas of need. *Interview with CDE Specialist 1.* CDE Specialist 1 indicated the District performed nearly

every social-emotional assessment available, and further indicated that a conversation with Parents regarding Student’s health history was a common and appropriate method of screening for health issues. *Id.* Overall, the SCO finds that these assessments were comprehensive and appropriate to identify social, emotional, and health related needs. *Id.*

F. Parents’ Initial Request for an IEE

34. On March 2, 2020, Parents’ Educational Advocate (“Advocate”) contacted District staff via email to share that Parents disagreed with the testing and were requesting an IEE. *Exhibit H*, p. 4. Special Education Coordinator responded the same day via email, writing, “[b]efore we consider a request for an Independent Educational Evaluation, the school team needs to have the opportunity to present their results from the special education evaluation that is in progress which does include assessment data considering attention and anxiety concerns.” *Id.* Special Education Coordinator added that a “[r]equest for an Independent Educational Evaluation cannot be granted if the school team does not have the opportunity to complete the evaluation and eligibility process currently in process.” *Id.* at p. 5.
35. On March 2, 2020, Advocate responded to Special Education Coordinator by reiterating the request for an IEE in the areas already tested by District—indicating that Parents would decide whether to request other areas for testing after reviewing the assessment results—and requesting written policies supporting Special Education Coordinator’s position on the IEE. *Id.* In response, Special Education Coordinator indicated that the District was not denying the IEE but instead wanted to first complete the social-emotional and health assessments and understand Parents’ disagreement before granting the IEE request. *Id.*
36. On March 11, 2020, Parents emailed Special Education Coordinator to again request an IEE. *Id.* at p. 8. Parents wrote, “[t]hanks for sending the draft report and for getting the additional testing done. [We] disagree with the results and request an IEE to cover all areas tested to be done by [Private Practitioner].” *Id.* They added, “[p]lease let us know when we can sign the IEE form so we can call [Private Practitioner] and get [Student] scheduled.” *Id.*
37. On March 12, 2020 Special Education Coordinator wrote on behalf of the MDT, “I respectfully ask why you disagree to help us understand what you believe to be missing or incorrect in the evaluation. We can talk further at the staffing office on Friday where we will review all the assessment data we have completed and consider eligibility.” *Id.*

G. March 13, 2020 Eligibility Meeting and Parents’ Additional Requests for an IEE

38. On March 13, 2020, a properly constituted MDT met to review the results of the Social/Emotional Status and Health evaluations. *Exhibit F*, p. 5. It was determined that Student continued to be eligible for special education and related services only under SLD. *Id.* At the meeting, Parents again requested an IEE. *Interview with Parents.*

39. District policy does not require a specific form or justification (written or otherwise) from parents as part of an IEE request; all parents need do under District policy is make the request. *Interviews with Special Education Director and Special Education Coordinator; Exhibit M*, p. 29.
40. That same day, Special Education Coordinator emailed Parents regarding the IEE request. *Exhibit H*, p. 9. Special Education Coordinator wrote, "I understand you are planning to send me a request for the IEE with a rationale for what you are wanting the IEE to inform and why our evaluation was insufficient." *Id.* Special Education Coordinator added, "[o]nce I receive this request/rationale and your release of information form for [Private Practitioner] that [Special Education Teacher] gave you, we will proceed from there." *Id.*
41. Special Education Coordinator indicated she did not require Parents to provide a written justification before an IEE would be provided, and that she requested the information because the District was curious regarding the source of Parents' disagreement. *Interview with Special Education Coordinator*. Parents indicated otherwise, and the SCO finds it reasonable, based on the plain language of the emails, that Parents did not interpret Special Education Coordinator's repeated requests for written justification as optional. *Exhibit H*, pp. 4-9; *Interview with Parents*.
42. Parents specifically requested Private Practitioner as the IEE evaluator and District granted Parents' choice. *Exhibit H*, pp. 159, 161.
43. On March 17, 2020, Special Education Director responded that the District was granting the IEE request and willing to contact Private Practitioner as soon as Parents returned the signed consent to release information. *Id.* at p. 10. Special Education Director asked Parents to identify which areas they desired to be evaluated and indicated that once the District contacted Private Practitioner, the District would step out of the communication so Parents could proceed with the IEE in an independent manner. *Id.*
44. Special Education Coordinator contacted Private Practitioner via email on March 17, 2020, informing Private Practitioner that a family was requesting an IEE for a student eligible for special education under the category of SLD. *Exhibit H*, p. 178. Special Education Coordinator informed Private Practitioner that District was waiting for Parents to return a release of information, and Special Education Coordinator requested an anticipated timeline for evaluations. *Id.*
45. On March 18, 2020, Private Practitioner wrote, "[m]y timeline is bad. I am booking September. BUT things may change with the current situation. We are thinking we can see kids if they are not ill and have no known exposure. (That may change if the governor shuts things down for a few weeks)." *Id.* at p. 179.
46. On March 26, 2020, Parents sent District staff an email containing a letter requesting an IEE, explaining the rationale behind the request and the testing Parents wanted performed, as

well as a consent for mutual release of information for the District to share Student's information with Private Practitioner. *Id.* at p. 11.

47. On March 31, 2020, Special Education Coordinator emailed Parents to inform them that she made contact with Private Practitioner regarding the IEE and Parents could give Private Practitioner a call. *Exhibit 16*, p. 5. The materials provided to Private Practitioner included Parent's request that Student be evaluated in the areas of general intelligence, academic performance, social and emotional status, motor abilities, health, and neurocognitive function. *Interview with Special Education Coordinator; Exhibit 16*, pp. 1, 5.
48. In the meantime, on April 3, 2020, a properly constituted IEP Team met to develop an IEP (the "April 2020 IEP") for Student based on the results of the initial evaluation. *Exhibit A*, pp. 34-58. The April 2020 IEP contained goals related to social/emotional wellness, as well as goals in reading, writing, and math. *Id.* pp. 47-50. The April 2020 IEP also contained several accommodations, including occupational therapy accommodations to assist Student with motor control issues (i.e., Student was permitted to word process her final writing when possible to help with handwriting difficulties). *Exhibit A*, p. 50; *Interview with Special Education Teacher*.

H. The IEE

49. In April of 2020, Parents made several attempts to contact Private Practitioner to set up the IEE but were unable to reach her as she did not answer the phone and her voicemail box was full. *Interview with Parents*. On April 28, 2020, Parents emailed Special Education Coordinator for assistance. *Exhibit H*, p. 190. Special Education Coordinator reached out to Private Practitioner, and Parents were able to connect with Private Practitioner in early May of 2020 to schedule the IEE. *Interviews with Special Education Coordinator and Parents*.
50. Student was evaluated by Private Practitioner on May 14, 2020. *Exhibit B*, p. 10. Due to COVID-19 and stay-at-home orders³, the IEE was conducted virtually in two separate forty-minute sessions. *Id.* Private Practitioner assessed Student using the WISC-5, the Wide Range Achievement of Memory and Learning Story Memory, the Woodcock Johnson IV Tests of Achievement, the McCarney Home Rating Scale, a Child Behavior Checklist, a Sensory Motor Checklist, and a Clinical Interview. *Id.* at pp. 12-13.
51. Parents' position is that Private Practitioner failed to administer motor ability and/or occupational therapy assessments. *Reply*, p. 5. However, the SCO finds that, consistent with Parents' request that the IEE test motor abilities, Private Practitioner assessed Student's motor abilities using the Sensory Motor Checklist and observations of Student's grip and handwriting. *Exhibit 16*, p. 1; *Interview with CDE Specialist 1*. The SCO finds further that Parents specifically requested Private Practitioner, who is not an occupational

³ See *Colo. Exec. Order No. D 2020 007* (Mar. 18, 2020), https://www.colorado.gov/governor/sites/default/files/inline-files/D%202020%20007%20Ordering%20Suspension%20of%20Normal%20In-Person%20Instruction_0.pdf.

therapist, for the IEE, and that therefore Private Practitioner would not have been able to accommodate occupational therapy assessments. *Interview with CDE Specialist 1.*

52. Overall, Private Practitioner found that Student was young and relatively immature compared to children in her grade. *Exhibit 16* at p. 15. Private Practitioner also found that Student suffered from a mild language-based disability, and that reading and writing delays were secondary to the language-based disability. *Id.* Private Practitioner opined that Student functioned better visually, which might explain her stronger performance in math. *Id.* Based on Student's writing, Private Practitioner concluded Student met the criteria for a writing disability. *Id.* In addition, Private Practitioner concluded that she exhibited some general neurological immaturity and was anxious and easily stressed, which could make academic challenges related to her immaturity and language issues particularly difficult to manage. *Id.* at pp. 15-16.
53. Private Practitioner's report contained several recommendations regarding Student's special education and programming. *Id.* at p. 16. Private Practitioner suggested relative neurological immaturity might contribute to Student's academic struggles and recommended retaining Student in second grade. *Id.* Private Practitioner indicated, however, that Student was socially sensitive, and might not wish to be retained. *Id.*
54. Private Practitioner recommended additional evaluations for language skills to inform academic interventions, as well as occupational therapy to address subtle issues in fine motor planning and directionality. *Id.* Depending on the results of the language skills assessment, Private Practitioner suggested interventions could be developed for language heavy tasks outside of language arts, such as applied math word problems. *Id.*
55. Private Practitioner also recommended reading interventions that use a multi-sensory reading program, ideally with an instructor who has a background in language skills. *Id.*
56. Private Practitioner further recommended several accommodations for Student. *Id.* Specifically, this included the use of dictation strategies to separate thinking from the act of writing, access to videos or visuals to support information provided in a purely verbal format, check-ins with Student and/or a written checklist of instructions to improve comprehension of instructions, and a partner for Student during tasks. *Id.*
57. Private Practitioner also provided several recommendations for Parents concerning Student's anxiety and emotional regulation. *Id.* at pp. 17, 32-41. The recommendations included setting a regular routine for Student, as well as scheduling regular "neutral time" where issues, responsibilities, and plans could be discussed when Student is not irritable or upset. *Exhibit B*, p. 17.

I. The August 19, 2020 IEP Team Meeting

58. Although the IEE assessments were administered in May of 2020, the IEE report was not provided to District until August 6, 2020. *Exhibit H*, p. 245. Emails provided by District demonstrate that District staff made several inquiries to Private Practitioner regarding the final report starting in July of 2020, but Private Practitioner's report was not completed until August of 2020. *Id.* at pp. 242-44.
59. The District convened a properly constituted IEP Team on August 19, 2020 to review the April 2020 IEP, consider the IEE, and discuss the possibility of retaining Student in second grade. *Exhibit H*, pp. 245, 250; *Exhibit I*, pp. 3-5. Special Education Coordinator, School Psychologist, Registered Occupational Therapist, Occupational Therapist Assistant, Special Education Teacher, Principal, Speech-Language Pathologist, Advocate, and Parents attended virtually. *Exhibit I*, pp. 3-5. Parents' position is that the IEE was not thoroughly discussed or given proper consideration. *Interview with Parents; Exhibit H*, p. 269.
60. The IEE report suggested Student might benefit from retention, as she was young for her class and demonstrated some neurological immaturity. *Exhibit B*, pp. 15. The IEP Team discussed the possibility of retention, and ultimately left the decision up to Parents. *Interviews with Special Education Coordinator, Parents, and Principal; Exhibit I*, p. 4. Student expressed reservations about being retained in second grade, so Parents decided to have her move on to third grade. *Interviews with Special Education Coordinator and Parents*.
61. The IEE report also recommended that the IEP Team perform additional evaluations in occupational therapy and language skills. *Id.* at pp 16-17. The IEP Team determined that while current occupational therapy information from the District's initial motor ability evaluation was sufficient, Certified Occupational Therapy Assistant would monitor Student's needs and the IEP Team would revisit possible accommodations on a later date. *Exhibit E*, p. 8. The IEP Team agreed with Private Practitioner's recommendation regarding an additional language skills assessment and planned to consider other accommodations on a later date after the assessments were complete. *Id.* at pp. 7-8. The IEP Team further discussed possible sensory strategies and accommodations based on Parents' input, such as fidgets in class and preferential seating. *Id.* at p. 7.
62. As result of the August 19, 2020 meeting, District staff and Parents agreed to several proposed courses of action: (1) Student was to continue in third grade rather than being retained in second grade, (2) Student was to be assessed for language skills in September of 2020, (3) a meeting was to be arranged between Special Education Teacher and Parents to discuss interventions, (4) Student was to be provided with preferential seating in class and fidgets for classroom time, and (5) occupational therapy services were to continue as described in the April 2020 IEP, but Student was to be observed by Occupational Therapist for other possible accommodations. *Exhibit I*, p. 4. The District provided Parents with prior written notice of these actions on August 25, 2020, and Parents signed consent for the additional language skills assessment on August 27, 2020. *Exhibit E*, pp. 7-9.

63. Special Education Coordinator later emailed Private Practitioner explaining the discussions surrounding the IEE, as well as asking for follow up recommendations. *Exhibit H*, p. 250. Special Education Coordinator wrote, “[w]e will be meeting on October 9, 2020 to review the speech/language evaluations the school [Speech Language Pathologist] is completing and see how that informs the IEP. I wanted to see if you would like to collaborate any further on the IEE results based on my brief summary I provided here.” *Id.* Special Education Coordinator added, “[p]lease let me know if you have a good time to talk prior to the October 9th [meeting] as I want to make sure we are honoring the review of the IEE and any additional input from you.” *Id.*

J. The Language Skills Evaluation and the October 2020 IEP

64. On September 17, 2020, Speech Language Pathologist evaluated Student’s receptive vocabulary using the Peabody Picture Vocabulary Test Fifth Edition (“PPVT-5”). *Exhibit B*, p. 54. Student’s scores demonstrated receptive vocabulary in the expected range compared to other children of the same age. *Id.*

65. On September 30, 2020, Speech Language Pathologist evaluated Student’s Communicative Status by administering the Clinical Evaluation of Language Fundamentals Fifth Edition (“CELF-5”), a test used to assess receptive and expressive language functioning. *Id.* at pp. 50-51. Based on the evaluation, Student’s overall expressive and receptive language skills were within normal limits, although the evaluation showed that Student benefits from visual aids and time to “warm up” to different tasks and situations. *Id.* at p. 55.

66. A properly constituted IEP Team met on October 9, 2020 to discuss the results of the language skills evaluation and to review the April 2020 IEP. *Exhibit A*, p. 31. As a result of the language skills assessment, the April 2020 IEP was revised as follows: the addition of increased reading interventions from twenty minutes per day to forty-five minutes per day (five days per week); the allowance of time to warm up to new situations and tasks; and the use of visuals to pair with auditory information. *Id.* at p. 29. Accommodations discussed at the August 19, 2020 IEP meeting, such as preferential seating and fidgets for classroom time, were also added to the IEP. *Id.* at p. 23. Special Education Coordinator also shared input from Private Practitioner that was obtained after speaking with her prior to the meeting. *Id.* at p. 31. Student currently receives services consistent with the October 2020 IEP. *Interview with Parents; Exhibit A*, pp. 3-33.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District failed to request parental consent for an initial evaluation within a reasonable time after the District initiated a special education referral on November 22, 2019, in violation of 34 C.F.R. §§ 300.300(a) and 300.301.

A. Parental Consent for an Initial Evaluation

The parent of a child may request an initial IDEA evaluation, the purpose of which is: (1) to determine whether the child has a disability, and because of the disability needs special education and related services, and (2) to help the IEP team determine the child's specific educational needs. 34 C.F.R. §§ 300.301(b); 300.304(b)(1)(i)-(ii); ECEA Rule 4.02(3)(a). If a parent requests an evaluation, the school district has two options: (1) agree to evaluate the child and obtain parental consent to conduct the evaluation, or (2) deny the request to evaluate and provide parent with written notice explaining its decision. *Poudre School District*, 118 LRP 28104 (SEA CO 2/5/18).

If a school district agrees to evaluate the child, it “must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.” 34 C.F.R. § 300.300(a)(iii). The IDEA does not require school districts to seek parental consent within a specific timeframe; however, the U.S. Department of Education cautions that “delays of several months are generally unacceptable.” *Letter to Anonymous*, 50 IDELR 258 (OSEP 2008); *see also* 71 Fed. Reg. 156, 46637 (August 14, 2006) (noting “it would generally not be acceptable for an LEA to wait several months to . . . seek parental consent for an initial evaluation if the public agency suspects the child to be a child with a disability”). Thus, school districts “would be well-advised to request parental consent for evaluations as soon as possible.” *Denver Pub. Sch. Dist.* 77 IDELR 57 (SEA CO 2020) (citing *Letter to Anonymous*, 50 IDELR 258 (OSEP 2008)).

In this case, the District’s decision to refer Student for an evaluation occurred on November 22, 2019. (FF #9). Consent for an evaluation was not sent to Parents until January 7, 2020, forty-six days later. (FF #14). The SCO acknowledges that this forty-six-day delay includes three weeks of holiday break when School was not in session. *Id.* However, a delay of forty-six-days for the purpose of maximizing the amount of time available for an evaluation, when faced with a holiday break, is inconsistent with the IDEA. (FF #12).

Conducting evaluations during extended breaks, such as the typical school's summer vacation, can be “challenging for school districts, particularly if fewer staff members are available. Nevertheless, the IDEA contemplates that the initial evaluation of a child suspected of having a disability not be unreasonably delayed so that eligible children with disabilities are not denied a FAPE.” *Letter to Reyes*, 59 IDELR 49 (OSEP 2012). Thus, a school district’s obligation to evaluate students under the IDEA remains in effect throughout the calendar year, including during holiday breaks. *Id.*; *see, e.g., CDE Decision 2020.533.*

In this case, the District should have provided Parents with consent prior to January 7, 2020. (FF #14). The District concedes that consent could have been obtained earlier and that it therefore failed to meet its own standards by waiting forty-six days to obtain consent. *Id.* For

these reasons, the SCO finds and concludes that the District failed to make reasonable efforts to obtain consent from Parents, resulting in a procedural violation of the IDEA.

A procedural violation results in denial of a FAPE for a child if the violation (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).

Here, the SCO finds there was not a denial of a FAPE for Student. Although the decision to refer Student for an evaluation occurred at a meeting on November 22, 2019, School was not in session from November 23 through December 3, 2019. (FF #10). Also, School was only in session for approximately three weeks between December 3, 2019 and January 7, 2020 due to two weeks of holiday break. (FF #14). Ultimately, upon receiving parental consent on January 8, 2020, District completed the initial evaluation by January 17, 2020 and involved Parents throughout the process. (FF #16-19, 23-25, 32, 48). Accordingly, the SCO finds and concludes that the procedural violation did not result in a substantive violation of the IDEA.

B. Systemic IDEA Violations

Pursuant to its general supervisory authority, CDE must 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 SEA'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).

During interviews, District staff acknowledged the delay in this case was both unusual and not in conformity with District standards. (FF #14). District staff were knowledgeable about the requirements of 34 C.F.R. §§ 300.300 and 300.301 and expressed that the delay in this case was not common. *Id.* Special Education Director further stated that the District frequently trains staff regarding the referral process, and that the District does not have a policy of waiting until after holiday breaks to obtain consent. (FF #14-15). Finally, District admitted the delay violated its standards and concedes that consent could have been obtained earlier. (FF #14). These facts support finding that this procedural violation is not systemic.

Conclusion to Allegation No. 2: District evaluated Student in all areas of suspected disability, consistent with 34 C.F.R. § 300.304(c)(4). District also properly considered information provided by Parents, consistent with 34 C.F.R. § 300.305(a)(1)(i).

A. Evaluation in Areas of Suspected Disability

Under the IDEA, before the initial provision of special education and related services to a child with a disability, school districts must conduct a full and individual initial evaluation to determine the extent to which a student requires special education. 34 C.F.R. § 300.305. To provide a thorough and comprehensive initial evaluation, school districts must ensure that the student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 34 C.F.R. § 300.304(c)(4).

School districts must: (1) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parents, (2) not use any measure or assessment as the sole criterion for determining whether a child is a child with a disability, and (3) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. 34 C.F.R. § 300.304(b)(a)-(3). Evaluations must be sufficiently comprehensive to identify all of the child's special education needs, whether or not commonly linked to the disability category in which the child has been classified. 34 C.F.R. § 300.304(c)(6).

In this case, the concerns about Student at School centered on struggles with basic reading, writing, and math skills. (FF #3-9, 16). Accordingly, the District evaluated Student in the areas of motor ability, academic achievement, and general intelligence in January and February of 2020. (FF #16-20). At home, Parents observed Student to exhibit signs of anxiety and fatigue, and to complain about stomach aches in association with School. (FF #3, 4). During the February 11, 2020 eligibility meeting, Parents expressed concern about anxiety, fatigue, and possible ADHD. (FF #24). In response, the District administered social-emotional assessments and a health screening in February and March of 2020. (FF #25-32).

The SCO finds that the entirety of District's initial evaluation, completed within sixty days of obtaining consent from Parents on January 8, 2020, was comprehensive and tailored to Student's suspected areas of need. (FF #16-21, 25-33). For these reasons, the SCO finds and concludes that the District evaluated Student in all areas of suspected disability.

B. Consideration of Information Provided by Parents

With the intention of developing an IEP that is tailored to the unique needs of the child, the IDEA places particular emphasis on collaboration among parents and school districts, requiring that parents be afforded the opportunity to participate and that their participation be meaningful, including giving careful consideration to their concerns for enhancing the education of their child. See 34 C.F.R. §§ 300.321(a)(1), 300.322, 300.324(a)(ii), and 300.305(a)(1). To that end, as part of an initial evaluation, the IEP Team and other qualified professionals as appropriate must review existing evaluation data on the child, including evaluations and information provided by the parents of the child. 34 C.F.R. § 300.305(a)(1);

see, e.g., S.P. by and through Palacios v. East Whittier City Sch. Dist., 735 Fed. Appx. 320 (9th Cir. 2018).

In this case, the District considered information provided by Parents as part of the evaluation process on multiple occasions. Prior to the initial evaluation, Parents expressed concern about Student's basic reading and writing skills, and suggested the District assess for a learning disability such as dyslexia. (FF #5-6, 16). In response, the District evaluated Student to determine if she needed special education and related services in the areas of general intelligence, academic achievement, and motor ability in January and February of 2020. (FF #16).

At the February 11, 2020 eligibility meeting, Parents disagreed with the results of the District's initial evaluations and expressed concern that the District did not assess Student in the areas of Social/Emotional Status and Health. (FF #24). Although the District had not observed signs of anxiety, fatigue, or ADHD in the school setting, the District agreed to perform additional assessments in the areas requested by Parents. (FF #24-25). During February and March of 2020, the District administered a variety of social and health assessments, and Nurse Consultant performed a health screening. (FF #26-32).

Results of the additional evaluations performed by the District in February and March of 2020 were discussed with Parents on March 13, 2020. (FF # 38). Although anxiety and fatigue were not observed by educators in the school setting, the District included a social/emotional wellness goal in the April 2020 based on Parents' observations. (FF #48). For these reasons, the SCO finds and concludes that the District properly considered input from Parents as part of Student's initial evaluation.

Conclusion to Allegation No. 3: District did not unnecessarily delay the provision of an IEE at public expense following Parents' request on March 2, 2020, consistent with 34 C.F.R. § 300.502(b)(2).

A. The IEE

Parents have a right to seek an IEE at public expense if they disagree with an evaluation conducted by the district. 34 C.F.R. § 300.502(b)(1). An IEE is an "evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question." 34 C.F.R. § 300.502(a)(3)(i). After a parent requests an IEE at public expense, the district "must without unnecessary delay, either – (i) file a due process complaint to request a hearing to show that its evaluation is appropriate; or (ii) ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria." 34 C.F.R. § 300.502(b)(2).

A district may ask for a parent's reasons for disagreeing with an assessment, but it may not require, and may not wait for, the statement of reason by parents. 34 C.F.R. § 300.502(b)(4). A district may not impose conditions or timelines on a request for an IEE. 34 C.F.R. § 300.502(e)(2).

In this case, the SCO finds that Parents requested an IEE at public expense through Advocate on March 2, 2020. (FF #34). The District responded by indicating the IEE request could not be granted until the District completed its evaluations. *Id.* The District also indicated it wanted to understand the nature of Parents' disagreement. (FF #35).

The District completed its initial evaluation in March of 2020 and the MDT presented results of the final assessments (social-emotional and health) to Parents on March 13, 2020. (FF #38). At the meeting, Parents again requested an IEE. *Id.* In response, Special Education Coordinator made an additional request for a written rationale of why Parents disagreed with the District's initial evaluation. (FF #40). The District initiated the IEE process by contacting Private Practitioner on March 17, 2020. (FF #44).

The SCO finds and concludes that the District did not unnecessarily delay the provision of the IEE. First, the District had the right to complete the initial evaluation, which was still in progress when the District received Parents' initial IEE request. (FF #34). Second, Parents specifically selected Private Practitioner to conduct the IEE and the District granted Parents' request. (FF #42). Third, the District reached out to Private Practitioner on March 17, 2020 to notify her that a family was requesting an IEE. (FF #44).

Most of the delay in initially scheduling the IEE was caused by communication issues between Parents and Private Practitioner. (FF #47, 49). Although the District did not provide Private Practitioner with the documentation necessary to facilitate the IEE until after March 26, 2020, when Parent provided the District with a written justification for the IEE and consent to share information with Private Practitioner, emails from Private Practitioner show she was booking out into September when District made contact to inquire about the IEE. (FF #44-47).

In addition, the District took steps to help Parents connect with Private Practitioner after Parents emailed Special Education Coordinator for help on April 28, 2020. (FF #49). Finally, the IEE was completed in May of 2020, and although the District was proactive in reaching out to Private Practitioner, the IEE report was not provided to the District until August of 2020. (FF # 58). Once the report was provided to the District on August 6, 2020, a meeting was promptly scheduled to discuss the results on August 19, 2020. (FF #58-59). The SCO therefore finds and concludes that the District did not unnecessarily delay the provision of the IEE.

Despite this conclusion, the SCO reminds the District that conditioning the granting of an IEE request on the receipt of a written justification from parents is inconsistent with the requirements of the IDEA and can lead to an unreasonable delay in the provision of an IEE in certain situations. 34 C.F.R. §§ 300.502(b)(2), (b)(4), and (e)(2).

Conclusion to Allegation No. 4: District properly considered the results of an IEE conducted in May of 2020 while developing Student’s IEP, consistent with 34 C.F.R. § 300.502(c)(1).

In developing a child’s IEP, the IEP Team must consider the results of the initial or most recent evaluation of the child. 34 C.F.R. § 300.324(a)(1)(iii). If a parent obtains an IEE at public expense, the district must consider the results of the IEE when making any decision regarding the provision of FAPE to the child. 34 C.F.R. § 300.502(c)(1). Though a district must consider the results of the evaluation, it 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 87 (2d Cir. 1993); *see also G.D. v. Westmoreland Sch. Dist.*, 17 IDELR 751 (1st Cir. 1991) (finding that the requirement for an IEE to be considered does not mandate that there be substantive discussion).

In this case, Private Practitioner made several recommendations in the IEE report, which was provided to the District on August 6, 2020, including: (1) that retention be considered due to Student’s relative immaturity compared to peers (although Private Practitioner suggested Student might not desire this outcome), (2) that Student receive a language skills assessment, and (3) that Student receive an occupational therapy assessment to address issues with fine motor planning and directionality. (FF #52-58). Private Practitioner further opined that Student would benefit from dictation strategies, as well as the incorporation of visual aids to accompany purely verbal classroom instructions. (FF #56).

The IEP Team, including Parents and Advocate, discussed the findings of the IEE report at a meeting on August 19, 2020, and ultimately decided to adopt many, if not all, of the recommendations outlined in the report. (FF #58-62). For instance, the IEP Team discussed, but decided against, retaining Student in second grade based on input from Parents and Student. (FF #60). The IEP Team also followed Private Practitioner’s recommendation for additional evaluations in language skills and administered a language skills assessment in September of 2020. (FF #61-62, 64-66). The IEP Team then reconvened in October 2020 to review the language skills assessment and update the April 2020 IEP based on the results. (FF #66).

The IEP Team discussed the possibility of an additional occupational therapy assessment but decided against it since the District’s Certified Occupational Therapy Assistant already administered a motor ability assessment in January of 2020. (FF #19, 61). In addition, Student was already receiving occupational therapy accommodations under the April 2020 IEP. (FF #48). Nevertheless, the IEP Team determined that Certified Occupational Therapy Assistant would continue to observe Student for possible additional accommodations. (FF #61). The SCO therefore finds and concludes that the District properly considered the results of the IEE.

REMEDIES

The SCO concludes that the District has violated the following IDEA requirement:

- a. Failing to make reasonable efforts to obtain parental consent for an initial evaluation of Student, from December 3, 2019 to January 10, 2020, in violation of 34 C.F.R. §§ 300.300(a) and 300.301.

To remedy this violation, the District is ordered to take the following actions:

- 1) By **Friday, April 2, 2021**, the District shall submit to CDE a corrective action plan (“CAP”) that adequately addresses the violation noted in this Decision. The CAP must effectively address how the noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom the District is responsible. The CAP must, at a minimum, provide for the following:
 - a) Special Education Director, Special Education Coordinator, School Psychologist, and Principal must review this Decision in its entirety and the requirements of 34 C.F.R. §§ 300.300 and 300.301 with District’s legal counsel, no later than **Friday, June 4, 2021**. If these individuals are no longer employed with the District, the District may substitute individuals occupying identical roles to demonstrate compliance with this remedy.
 - b) A signed assurance that these materials have been reviewed must be completed and provided to CDE no later than **Friday, June 25, 2021**.

The Department will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, the Department will arrange to conduct verification activities to verify the District’s timely correction of the areas of noncompliance.

Please submit the documentation detailed above to the Department as follows:

Colorado Department of Education
Exceptional Student Services Unit
Attn.: Beth Nelson
1560 Broadway, Suite 1100
Denver, CO 80202-5149

NOTE: Failure by the District to meet any of the timelines set forth above may adversely affect the District’s annual determination under the IDEA and subject the District to enforcement action by the Department.

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. CDE State-Level Complaint Procedures, ¶13; Rule 2620-R-2.07(9)(c). If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. CDE State-Level

Complaint Procedures, ¶13; See also 34 C.F.R. § 300.507(a); 71 Fed. Reg. 156, 46607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned SCO.

Dated this 3rd day of March, 2021.

Ross Meyers
State Complaints Officer

APPENDIX

Complaint, pages 1-8

- Exhibit 1: Parent Notes and Letter Regarding IEE
- Exhibit 2: Correspondence Prior to December 3, 2019
- Exhibit 3: Correspondence December 4, 2019 through July 30, 2020
- Exhibit 4: Correspondence July 31, 2020 through December 3, 2020
- Exhibit 5: Special Education Referral Documentation
- Exhibit 6: Meeting Notices, Staff Notes, and Eligibility Determinations
- Exhibit 7: iReady Data
- Exhibit 8: MTSS Data and Grades
- Exhibit 9: Evaluation Data
- Exhibit 10: IEE
- Exhibit 11: April 3, 2020 IEP
- Exhibit 12: April October 9, 2020 IEP
- Exhibit 13: Miscellaneous Documentation
- Exhibit 14: Photo of Student

Response, pages 1-6

- Exhibit A: IEPs
- Exhibit B: Evaluation Data
- Exhibit C: Assessment Data
- Exhibit D: Special Education Referral Documentation
- Exhibit E: Prior Written Notices
- Exhibit F: Notices of Meeting
- Exhibit G: Determination of Eligibility
- Exhibit H: Correspondence
- Exhibit I: Meeting Notes
- Exhibit J: None (Provided Later as Exhibit M)
- Exhibit K: List of Staff Relevant to Complaint Allegations
- Exhibit L: Confirmation of Delivery to Parents
- Exhibit M: District Policies and Procedures

Reply, pages 1-7

- Exhibit 15: Email from Advocate to District Dated August 10, 2020
- Exhibit 16: IEE Documentation
- Exhibit 17: Additional Correspondence
- Exhibit 18: Private OT Report

Telephonic Interviews:

- Special Education Director: February 10, 2021
- Special Education Coordinator: February 10, 2021
- Former Special Education Teacher: February 11, 2021
- Principal: February 11, 2021
- Parents: February 11, 2021