

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

---

**State-Level Complaint 2024:539**  
**Douglas County School District RE-1**

**DECISION**

**INTRODUCTION**

On March 28, 2024, 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-level complaint (“Complaint”) against Douglas County School District RE-1 (“District”). The State Complaints Officer (“SCO”) determined that the Complaint identified one allegation 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.

**RELEVANT TIME PERIOD**

Pursuant to 34 C.F.R. §300.153(c), the Colorado Department of Education (the “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 March 28, 2023 to the present 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 District denied Student a Free Appropriate Public Education (“FAPE”) because District:

1. Failed to properly implement Student’s IEP from March 18 through March 22, 2024, in violation of 34 C.F.R. §§ 300.34 and 300.323, specifically by:
  - a. Failing to make Student’s IEP accessible to service providers responsible for its implementation; and
  - b. Failing to provide Student with transportation to and from School.

---

<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.

## **FINDINGS OF FACT**

After thorough and careful analysis of the entire Record,<sup>2</sup> the SCO makes the following FINDINGS:

### **A. Background**

1. Student is a nine-year old who is eligible for special education and related services under the category of Multiple Disabilities, specifically Autism Spectrum Disorders (“ASD”) and Intellectual Disability (“ID”). *Exhibit A*, p. 1. Student is a fourth grader attending an approved facility school overseen by the CDE Office of Facility Schools (“Facility School”). *Id.*
2. The decision to place Student at an approved facility school was made by Student’s IEP team at District. *Id.* at pp. 1, 12, 13, and 35.
3. Student is described as a sweet boy who is very active and likes to run and jump. *Interview with Parent*. His favorite activities include walking, going to the park, and playing on the trampoline. *Id.* At school, Student enjoys playing with water, sensory and light up toys, watching sensory videos, and relaxing on his bean bag. *Exhibit A*, p. 3; *Interview with Parent*.
4. This investigation concerns implementation of transportation services to and from Facility School between March 18, 2024 and March 22, 2024, a time period during which Facility School was in session but District was on spring break. *Complaint*, p. 3; *Exhibit E*.

### **B. The IEP**

5. Student’s Individualized Education Program dated August 31, 2023 (“IEP”) is in effect during the 2023-2024 school year. *Exhibit A*, pp. 1-39.
6. Student is nonverbal and can communicate his wants and needs using 3-4 word requests on his AAC device. *Exhibit A*, p. 16. He can independently walk to and use the bathroom and can follow a flexible work/break time schedule. *Id.*; *Interview with Parent*.
7. The IEP’s present levels of performance section documents progress on Student’s IEP goals. *Exhibit A*, p. 16.
8. Student’s disabilities require ongoing services to develop his communication skills. *Id.* at p. 22. Additionally, Student requires a highly structured, minimally stimulating environment with a low student to adult ratio, direct adult support and supervision across all school settings, and instruction for all content areas in a small group or one-on-one setting. *Id.* at pp. 7, 22.

---

<sup>2</sup> The appendix, attached and incorporated by reference, details the entire Record.

9. The IEP includes eight annual goals for reading, writing, math, social-emotional, communication, and self-determination, as well as accommodations. *Id.* at p. 25.
10. Special education services include 6,600 minutes per month of direct special education, 240 minutes per month of direct speech therapy, 120 minutes per month of direct social-emotional, and 240 minutes per month of direct occupational therapy. *Id.* at p. 35.
11. Relevant here, Student requires special transportation. *Id.* at p. 24 Specifically, Student “requires curb to curb transportation with an aide to assist in safety monitoring, provided by [District]. [Student] requires a booster seat in his ride.” *Id.* at pp. 4, 24.
12. Student’s IEP Service Delivery Statement states that “services are provided in accordance with the school calendar.” *Id.* at p. 35.
13. The IEP Team determined Student’s least restrictive environment to be a separate school. *Id.* at p. 37.

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

14. Generally, when a student with a disability requires specialized transportation as a related service, the student’s case manager or another member of the IEP team notifies Transportation Director at the beginning of the school year by completing a form in Enrich. *Exhibit I*, p. 15; *Interview with Transportation Director*. The Enrich form is then attached to the District’s Let’s Talk Form and submitted to the Transportation Department. *Exhibit I*; p. 15; *Interview with Special Education Director*.
15. After receiving the request, Transportation Director will assess where there is room for the student on routes that are currently in place, taking into consideration several factors like age, distance traveled, least restrictive environment in relation to transportation, and access to private assistance (specialized vehicle or equipment) to make the trip. *See Exhibit I*. If there is no room for the child on current routes, Transportation Director will engage a third-party transportation provider to service the student. *Interview with Transportation Director*.
16. The manner and mode of transportation may also be adjusted due to factors such as: bus scheduling, transportation provider, routes, location of bus stops, and selection of bus drivers and monitor. *Exhibit I*, p. 18.
17. Third-party companies and District service providers, such as drivers and monitors, have access to a student’s IEP through the District’s Let’s Talk system. *Exhibit I*, p. 17; *Interviews with Transportation Director and Interview with Special Education Director*.
18. Teachers and providers are usually informed of how to implement an IEP that includes transportation services at the beginning of the school year, at IEP reviews, and in instances where the IEP is modified for any reason. *Interview with Special Education Director*. Because of the expectation that transportation as a related service remain available over holiday

breaks for situations where a child attends a program or separate school that does not follow District's calendar, the child is not expected to separately request specialized transportation during those times. *Id.*

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

19. For Student, Out-of-District Coordinator worked with the IEP team at Facility School to complete the forms in Enrich in the fall of 2023. *Interview with Out-of-District Coordinator.* After this, Out-of-District Coordinator sent Student's form to the Transportation Department to allow for scheduling. *Id.* Following District's practices and procedures, Out-of-District Coordinator also met with Student's IEP team in the beginning of the year to make sure that the team understood how to implement Student's IEP. *Id.* The SCO finds that Out-of-District Coordinator fulfilled his obligations in getting Student's Transportation request form to District's Transportation Department consistent with District's practice and procedure.

#### **E. IEP Implementation: Transportation**

20. From Monday, March 18, 2024 through Friday, March 22, 2024, District was on spring break but Facility School was in session. *Exhibit E; Interviews with Parent and Transportation Director.*
21. Transportation Director had access to Student's IEP and Transportation Form prior to and during District's spring break. *Interview with Transportation Director.*
22. On March 19, 2024, Parent had a conversation with Transportation Director regarding Student's inability to receive transportation services that week because she had been informed it would not be provided. *Interview with Parent.* Transportation Director told Parent that Student would not receive transportation service as he typically did due to various reasons such as staffing shortages and budget concerns. *Exhibit J; Interviews with Parent and Transportation Director.*
23. There was a breakdown in communication between Out-of-District Coordinator and Transportation Director which contributed to Student not receiving transportation services. *Interviews of Out-of-District Coordinator and Transportation Director.*
24. The transportation logs provided by the third-party company providing transportation service for Student reflect that transportation was canceled for the week of March 18, 2024 through March 22, 2024, District's spring break. *Exhibit E.* District concedes that it was obligated to provide transportation to Student during this time period but that it did not. *Response p. 2.*
25. Student was transported by Parents to and from Facility School during this week. *Exhibit E; Interview with Parent.* The SCO finds that the daily roundtrip distance between Student's home and Facility School is approximately 26.8 miles. *Complaint, p. 1.* At all other times during the 2023-2024 school year, Student received transportation as a related service from

a third-party company consistent with the IEP. *Exhibit E; Interviews with Parent and Transportation Director.*

26. Based on these facts, the SCO finds that Student did not receive Special Transportation consistent with the IEP for the week of March 18, 2024 to March 22, 2024.
27. District indicated in its Response that it “will work with Student’s family to determine what, if any, compensatory education and/or transportation reimbursement to the parents is owed.” *Id.* During this investigation, Out-of-District Coordinator stated that he had begun outreach to Parent to begin discussion on compensatory services. *Interviews with Out-of-District Coordinator and Transportation Director.*

#### **F. Impact on Other Students and District’s Response**

28. Parent’s understanding of the lack of transportation service over this period was due to a mix of budget, staff union, and third-party transportation concerns. *Interview with Parent.* Transportation Director indicated that the basis for the lack of transportation service over this period was due to not having back-up drivers employed by District. *Interview with Transportation Director.*
29. Transportation Director stated that there were no backup drivers for District during spring break because the contracts they previously signed with the drivers did not cover that period. *Id.* Transportation Director informed Student’s third-party provider that they would need to cancel services that week due to the lack of backup drivers. *Id.* Accordingly, there were other IDEA-eligible students placed by District in facility schools not following District’s calendar who were entitled to but did not receive specialized transportation that week. *Id.*
30. District has identified these students but has not yet determined which of these students missed school and which of these students were transported to school by their parents due to District transportation not being available in March 2024. *Exhibit L.* There are 1,200 total IDEA-eligible students who receive transportation in the district. *Interview with Transportation Director*
31. District is working to ensure transportation services are provided consistent with IEPs in these situations moving forward, which includes changing the procedure to reflect that students receive the service consistent with their program or school calendar rather than in accordance with District’s calendar. *Interviews with Out-of-District Coordinator and Transportation Director.* This includes restructuring contracts for District-employed drivers to ensure transportation is provided to these students. *Interview with Transportation Director.*

#### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: District made Student’s IEP accessible to service providers responsible for its implementation but failed to properly implement the IEP from March 18 – March 22, 2024, in violation of 34 C.F.R. § 300.323. This did not result in a denial of FAPE. However, District must reimburse Parent for transporting Student to and from Facility School.**

**A. IEP Implementation: Legal Requirements**

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17; ECEA Rule 2.19. The IEP is “the centerpiece of the statute's education delivery system for disabled children . . . [and] the means by which special education and related services are ‘tailored to the unique needs’ of a particular child.” *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). A student’s IEP must be implemented in its entirety. 34 C.F.R. § 300.323(c)(2).

A district must ensure that “as soon as possible following the development of the IEP, special education and related services are made available to a child in accordance with the child’s IEP.” *Id.* § 300.323(c)(2). Related services include transportation “required to assist a child with a disability to benefit from special education.” *Id.* § 300.34. Transportation involves travel to and from school and between schools, travel in and around school buildings, and specialized equipment (such as special or adapted buses, lifts, and ramps). *Id.* § 300.34(c)(16). If included in an IEP, a district is required to provide transportation as a component of FAPE. *Id.* § 300.323(c)(2).

A school district remains responsible for the provision of transportation services for a child who is placed by the school district in an approved facility school. ECEA Rule 8.02. Indeed, where the decision to place a student with a disability at a private facility is the result of a mutual agreement between the parent and the school district, the legal standards for the provision of special education and related services under the IDEA are the same as if the student remained directly in the public school system. 34 C.F.R. § 300.146; *See, e.g., Letter to Garvin*, 30 IDELR 609 (OSEP 1998) (“The obligation to students with disabilities who are placed in private school facilities directly by the school system is no different than students with disabilities who remain in the public school system”).

Finally, a staff shortage does not excuse a district's obligation to provide a student transportation when the student's IEP requires transportation as a related service. *See, e.g., Albuquerque (NM) Pub. Schs.*, 123 LRP 17105 (OCR 03/21/23). This is true regardless of the reasons behind the shortage -- whether financially motivated, due to an inability to locate staff, or otherwise. *See OSEP Memorandum 95-9, 21 IDELR 1152* (OSEP 1994) (“The lack of adequate personnel or resources cannot be used as an excuse by the district to relieve them of their obligations to make FAPE available to [students with disabilities] in the LRE. The public agency must ensure the supply of a sufficient number of teachers who are qualified, with the needed aids and supports to provide such services in regular education environments.”)

**B. IEP Accessibility and Responsibilities**

The SCO must determine whether District satisfied its obligation under 34 C.F.R. § 300.323(d). To satisfy the implementation requirement, a district must ensure that each teacher and related services provider is informed of “his or her specific responsibilities related to implementing the child’s IEP,” as well as the specific “accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.” *Id.* § 300.323(d).

Here, District’s transportation department received Student’s Transportation Request Form from Out-of-District Coordinator, consistent with District’s policies and procedures (FF # 14). The transportation department had access to the Transportation Request Form and the IEP during the 2023-2024 academic year through Enrich, consistent with District practice. (FF #s 14-17, 21). Transportation staff credibly described an understanding of the IEP’s requirements and respective roles in service provision. (FF #s 14-19). For these reasons, the SCO finds and concludes that District complied with 34 C.F.R. § 300.323(d).

### **C. Implementation of the IEP’s Transportation Services**

Here, Student’s IEP requires special transportation between home and Facility School. (FF # 11). Specifically, the IEP requires “curb to curb transportation with an aide to assist in safety monitoring” and “a booster seat in his ride.” (*Id.*). There is no dispute that District was required to provide Student with special transportation to Facility School, and even where Facility School was in session while District schools were not in session due to spring break.(FF #s 23-25).

Student did not receive special transportation consistent with the IEP from March 18, 2024 through March 22, 2024. (FF #s 12, 20-26). Parent transported Student to Facility School during this week. (FF # 25). For these reasons, the SCO finds and concludes that District failed to implement the IEP from March 18 through March 22, 2024, in violation of 34 C.F.R. § 300.323(c)(2).

### **D. Materiality of the Failure to Implement the IEP**

Where the definition of a FAPE specifically references delivery of special education and related services consistent with an IEP, the failure to implement an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.19. However, not every deviation from an IEP’s requirements results in a denial of a FAPE. *See, e.g., L.C. and K.C. v. Utah State Bd. of Educ.*, 125 Fed. App’x 252, 260 (10th Cir. 2005) (holding that minor deviations from the IEP’s requirements which did not impact the student’s ability to benefit from the special education program did not amount to a “clear failure” of the IEP); *T.M. v. Dist. of Columbia*, 64 IDELR 197 (D.D.C. 2014) (finding “short gaps” in a child’s services did not amount to a material failure to provide related services). Thus, a “finding that a school district has failed to implement a requirement of a child’s IEP does not end the inquiry.” *In re: Student with a Disability*, 118 LRP 28092 (SEA CO 5/4/18). Instead, “the SCO must also determine whether the failure was material.” *Id.* Courts will consider a case’s individual circumstances to determine if it will “constitute a material failure of implementing the IEP.” *A.P. v. Woodstock Bd. of Educ.*, 370 Fed. App’x 202, 205 (2d Cir. 2010).

“A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP.” *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007). The materiality standard “does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided.” *Id.*

For instance, delay in providing transportation may be “material” if it interferes with a student’s ability to derive an education benefit. *Cherry Creek School District*, 119 LRP 37631, (SEA CO 6/25/19); *Wilson v. District of Columbia*, 56 IDELR 125 (D.D.C. 2011) (finding a district’s delay in arranging transportation to be material because a student missed three weeks of a four-week extended school year program); *See also District of Columbia Pub. Schs.*, 110 LRP 22777 (SEA DC 11/23/08) (ordering compensatory education for a student who missed 14 days of his extended school year program due to a lack of transportation).

Here, from March 18 through March 22, District failed to make special transportation available to Student. (FF # 20-24). Parent transported Student to Facility School from March 18 through March 22 and accordingly the failure to implement did not interfere with Student’s ability to derive an education benefit. (FF # 25). Apart from these five days, District provided Student with transportation consistent with the IEP during the 2023-2024 academic year. (FF # 25). In conceding its failure to provide Student with transportation for one week, District is working with Parent to determine if any compensatory education or transportation reimbursement may be owed. (FF # 27). For these reasons, the SCO finds and concludes that District’s failure to implement the IEP was not material and did not result in a denial of FAPE for Student.

Nevertheless, reimbursement may be appropriate if a parent drives a student to school or pays for alternative transportation services because of a school district's failure to provide transportation as required. *See, e.g., Fremont Union Sch. Dist.*, 74 IDELR 302 (SEA CA 2018) (ordering a California district to reimburse a student's parent for transportation expenses he incurred when the bus driver refused to enter the family's gated community to provide curb-to-curb transportation). In this case, Parent transported Student to and from Facility School, a roundtrip distance of 26.8 miles, on five days. (FF #25). The SCO finds that this amounts to 134 total miles and concludes, that at the 2024 IRS rate of \$0.67 per mile, District must reimburse Parent in the amount of \$89.78.

**Systemic IDEA Violations: This investigation demonstrates violations that are systemic and will likely impact the future provision of services for all children with disabilities in District if not corrected.**

Pursuant to its general supervisory authority, the CDE must consider and ensure the appropriate future provision of services for all IDEA-eligible students in 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).

Here, District has a process to ensure IDEA-eligible students receive transportation when it is required by an IEP. (FF # 14). However, in this case District failed to provide transportation for Student to and from Facility School from March 18 – March 22, 2024 because District was on spring break. (FF #s 10-26). This violation was not unique to Student as other similarly situated students were impacted. (FF # 30). This violation stemmed from a lack of proper staffing and scheduling, a breakdown in communication between the transportation department and school staff, and lack of procedures to address these situations. (FF # 22). For these reasons, the SCO finds and concludes that District’s failure to implement the IEP was systemic in nature.

### **REMEDIES**

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

- a. Failing to provide transportation as a related service, in violation of 34 C.F.R. § 300.323.

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

#### **1. Corrective Action Plan**

- a. By **Wednesday, June 26, 2024**, the District shall submit to the CDE a corrective action plan (“CAP”) that adequately addresses the violation noted in this Decision. The CAP must effectively address how the cited 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 CDE will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, the CDE will arrange to conduct verification activities to confirm the District’s timely correction of the areas of noncompliance.

#### **2. Final Decision Review**

- a. Special Education Director, Transportation Director, and Out-of-District Coordinator must review this Decision. This review must occur no later than **Wednesday, July 3, 2024**. A signed assurance that this Decision has been reviewed must be completed and provided to the CDE no later than **Wednesday, July 10, 2024**.

#### **3. District Procedures**

- a. By **Wednesday, July 10, 2024**, District must submit a written procedure to ensure compliance with 34 C.F.R. §§ 300.34 and 300.323 as it relates to the violation

described in this Decision. At a minimum, the procedure must offer clear guidance on ensuring transportation services are provided to IDEA-eligible students in District who attend a school or program that does not follow District's academic calendar.

- b. District can submit existing procedure(s) that meet these requirements, but they must be submitted to CDE Special Education Monitoring and Technical Assistance Consultant for review and approval prior to being finalized.
- c. District must ensure that all special education administrators and transportation service providers in District receive a copy of the procedure no later than **Friday, August 9, 2024**. Evidence that the procedure is shared with staff, such as a copy of the email notice sent, must be provided to the CDE no later than **Friday, August 16, 2024**.

#### **4. Transportation Reimbursement for Student**

- a. District shall reimburse Parent for the cost of transporting Student to and from Facility School from March 18 - March 22, 2024, **in the amount of \$89.78**. District is ordered to make this payment within 30 days of receipt of this decision. District must provide proof of payment to CDE no later than **June 26, 2024**.

#### **5. Transportation Reimbursement for Transported Students**

- a. District must determine and provide transportation reimbursement for parents who transported their students to and from school when District failed to make transportation available in March 2024. District must:
  - i. Create a list of all students who attended Facility Schools during March 2024. District must also create two additional lists: one including all students who were transported to or from school on any day during the period in which District failed to make transportation available ("Transported Students") and one including all students who missed school on any day during the period in which District failed to make transportation available ("Non-Transported Students"). Students may appear on both lists if they were transported to school on at least one day and missed school on at least one day during the affected period. These lists must be submitted to CDE by **Wednesday, June 26, 2024**.
  - ii. Calculate the reimbursement amount owed to the parents of each Transported Student for transporting to and from the student's school. This must be calculated by multiplying the number of miles driven by the current 2024 IRS rate of \$0.67 per mile. District must submit these

calculations, including the residential and school address relevant for each Transported Student, to CDE for approval by **July 24, 2024**.

- iii. Upon approval by CDE, and no later than **Friday, July 26, 2024**, District shall reimburse parents of Transported Students for the cost of transportation. District must provide proof of payment to CDE no later than **Friday, August 2, 2024**.

## **6. Waiver of Compensatory Services for Non-Transported Students**

- a. District must provide compensatory services for those students who missed school due to District not making transportation available in March 2024 (“Non-Transported Students”). District may, at its discretion but no later than **July 3, 2024**, submit to CDE a written request for waiver of Remedy § 7. This request shall include, at minimum:
  - i. An identification of which of Non-Transported Students have been determined to require compensatory education.
  - ii. The compensatory education type, subject matter, amount, setting, and how the services will be provided for Non-Transported Students. The number of compensatory service minutes provided shall not be zero.
  - iii. A copy of each PWN sent to parents proposing these offers of compensatory education.
  - iv. A proposed timeline by which the compensatory services detailed in the PWNs will be delivered.
- b. If District timely submits this information, CDE shall approve this request with respect to all students, approve this request with respect to some students but reject with respect to others, or reject this request with explanation to District on CDE’s reasoning for the rejection, no later than 14 days after receipt of this information.
- c. Should this request be approved with respect to all Non-Transported Students, District’s obligations under Remedy § 7 shall be waived. Should this request be approved with respect to some of the Non-Transported Students, District’s obligations under Remedy § 7 of this shall be waived with respect to those students but remain in place for all other students. Should this request be rejected, District’s obligations under Remedy § 7 of this Remedy shall remain in place for Non-Transported Students. Nothing in this paragraph shall be construed to waive District’s obligations under Remedies §§ 1 through 5 and § 8.

## **7. Provision of Compensatory Education Services for Non-Transported Students**

- a. If CDE has not approved the request outlined in Remedy § 6, Non-Transported Students shall receive compensatory direct specialized instruction services provided by a licensed special education instructor in the following amount: 30% of the missed service minutes. District may, at its discretion, provide a combination of group services and one-on-one services. These services must target each Student's current annual IEP goals.
- b. District may, at its discretion, provide more than the above-assigned amounts of compensatory services. The parents of these Non-Transported Students may waive, in writing, their Student's participation in some or all of these compensatory services, but must first be provided a copy of this Decision and specifically informed of District's compensatory service obligation with respect to their Student.

## **8. Verification of Compensatory Education Services for Non-Transported Students**

- a. To verify that Non-Transported Students receive the compensatory education required by this Decision, District must submit records of service logs for each Non-Transported Student to the CDE by the second Monday of each month until all compensatory education services for that student have been furnished. The name and title of the provider, as well as the date, the duration, and a brief description of the service must be included in the service log.
- b. These compensatory services shall begin as soon as possible and will be in addition to any services Non-Transported Students currently receive, or will receive, that are designed to advance them toward IEP goals and objectives. If for any reason, including illness, a student is not available for any scheduled compensatory services, District will be excused from providing the service scheduled for that session. If for any reason District fails to provide a scheduled compensatory session, District will not be excused from providing the scheduled service and must immediately schedule a make-up session in consult with parents and notify the CDE of the change in the appropriate service log.
- c. These compensatory services must be provided outside of the regular school day (preferably on weekends or during school breaks) to ensure students are not deprived of the instruction they are entitled to receive during the school day (including time in general education).
- d. All compensatory education will have been provided to Non-Transported Students no later than **eleven months from the issue date of this Decision.**

- e. If CDE determines, in its sole discretion, that additional information or action is necessary to verify or ensure that Non-Transported Students receive the compensatory education required by this Decision, it may require District to provide additional information, such as a student’s IEP, class schedule, or other documentation, or to take any additional actions deemed necessary by CDE.

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

Colorado Department of Education  
Exceptional Student Services Unit  
Attn.: CDE Special Education Monitoring and Technical Assistance Consultant  
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 CDE.

**CONCLUSION**

The Decision of the SCO is final and is not subject to appeal. *CDE State-Level Complaint Procedures*, 13. 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 27th day of May, 2024.



---

Tiera Brown  
State Complaints Officer

## APPENDIX

### Complaint, pages 1-4

### Response, pages 1-3

- Exhibit A: IEP dated 08/31/2023
- Exhibit B: BIP dated 08/07/2023
- Exhibit E: Transportation logs
- Exhibit G: District Calendar and School Calendar
- Exhibit H: Progress Reports
- Exhibit I: District Transportation Policies and Procedures
- Exhibit J: Email Correspondence
- Exhibit L: List of Students

### Telephone Interviews

- Parent: April 26, 2024
- Special Education Director: May 6, 2024
- Out-of-District Coordinator: May 6, 2024
- Transportation Director: May 8, 2024