

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

State Complaint SC2025-511
Mesa County Valley School District 51

DECISION

INTRODUCTION

On February 7, 2025, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against Mesa County Valley School District 51 (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified one allegation subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

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

RELEVANT TIME PERIOD

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after February 7, 2024. Information prior to February 7, 2024 may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

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

1. District did not fully implement Student’s Individualized Education Program (“IEP”) from August 7, 2024 to January 15, 2025, because it did not measure and report Student’s

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.

² The CDE’s state complaint investigation determines if District complied with the IDEA and, if not, whether the noncompliance results in a denial of a free appropriate public education (“FAPE”). 34 C.F.R. §§ 300.17, 300.101, 300.151-300.153.

progress on her IEP's annual goals—specifically, annual goals numbers 1, 2, and 3 for mathematics and annual goal number 4 for reading—consistent with her IEP, as required by 34 C.F.R. § 300.323(c).

FINDINGS OF FACT

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

A. Background

1. Student is a fourteen-year-old girl who attends ninth grade at a District high school (“School”). *Exhibit A*, p. 19. She is a “fun loving,” “inquisitive,” and tenacious student who enjoys learning new information and spending time with her peers. *Id.* at pp. 3, 21.
2. Student is eligible for special education and related services under the categories of Other Health Impairment for ADHD and Autism Spectrum Disorder. *Id.* at p. 22.
3. Parent raises a concern that District has not properly measured and reported progress for Student’s annual IEP goals. *Complaint*, pp. 1-12. She alleges that Student’s progress reports did not report progress using the measurements required by Student’s IEP, and she alleges that the reports inconsistently stated Student’s progress. *Id.*
4. District acknowledges that it did not properly measure Student’s progress and that the progress reports were deficient. *Response*, p. 1. District proposes, as remedies, to reevaluate Student; to provide compensatory minutes based on the results of the reevaluation in the areas of mathematics and reading; to provide intensive training to teachers at School regarding progress measuring and reporting; to conduct periodic checks of the teachers’ compliance with progress measuring and reporting; and to put Parent in regular contact with a District-level coordinator for the next year to oversee School compliance specifically regarding Student. *Id.* at p. 2.

B. Student’s 2024-2025 IEP

5. Student’s IEP in effect during the time frame of the accepted allegation was dated January 25, 2024. *Exhibit A*, p. 1.
6. The IEP reflected that Student’s disabilities resulted in the need for repetition of new academic subjects, multimodal directions for completing her work, assistance keeping her attention on lessons, help with organization and prioritizing, and support with social problem solving. *Id.* at pp. 4-5.

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

7. The IEP provided six goals: Goals 1, 2, and 3 targeted mathematics, Goal 4 targeted reading, Goal 5 targeted self-determination, and Goal 6 targeted social-emotional wellness. *Id.* at pp. 5-8. Parent's Complaint regards the academic goals, Goals 1 through 4, which are discussed in detail below.
8. The IEP stated that Parent would receive a progress report for each quarter, delivered with Student's report card. *Id.* at p. 5.
9. The IEP provided accommodations to help Student understand directions, stay on task, organize her workload, and complete assignments. *Id.* at p. 8.
10. The IEP provided services to enable Student to advance appropriately toward attaining her goals: For reading and mathematics, she received 125 minutes per week, each, of direct specialized instruction outside of the general education classroom from a special education teacher. *Id.* at pp. 11-12. This instruction was provided through a Basic Math class and a Reading class, both of which were group classes only for students with IEPs with mathematics and literacy goals. *Interviews with Coordinator, Math Teacher, and Reading Teacher.* She also received specialized instruction and mental health services for her social-emotional and self-determination goals. *See Exhibit A*, pp. 11-12.
11. The IEP Team determined that Student's least restrictive environment was more than 80%, meaning that she would spend more than 80% of her time in the general education environment. *Id.* at p. 13.

C. Student's Goals and Progress Reports

12. Progress was reported on Student's goals for the periods ending May 23, 2024; October 9, 2024; December 20, 2024; January 24, 2025; February 4, 2025 (on a draft IEP dated January 24, 2025); and February 11, 2025. *See Exhibits 1, A, and G.*
13. The January 24, 2025 report for each goal was made by District Coordinator ("Coordinator") who, after seeing Student's IEP in preparation for the IEP Team's review in January 2025, realized that the Team needed additional progress data and accordingly administered one-off assessments for that purpose. *Interview with Coordinator.*
14. Although Student's IEP stated that Parent would receive progress reports each quarter, she was not reliably given the reports and instead needed to email Case Manager to get a report. *Interview with Parent; Exhibit K*, pp. 25-26, 58.

Goal 1: Mathematics (Word Problems)

15. Student's Goal 1, for mathematics, stated that she would, "given two-step word problems consisting of addition, subtraction, multiplication and division . . . be able to correctly solve the problems with 80% accuracy in 3 out of 4 trials, as measured with curriculum-based measures." *Exhibit A*, p. 6.

16. The “unit of measurement” for measuring progress was “80% accuracy,” to be evaluated with “focused assessments.” *Id.*

17. Student’s progress on this goal was reported as follows:

- a. May 23, 2024: “On a recent assessment, [Student] scored 87% accuracy for doing two-step word problems with addition, multiplication and division. Will continue to monitor for progress.” *Exhibit 1*, p. 1.
- b. October 9, 2024: “[Student] finished the Basic Math quarter with an 87%.” *Exhibit 1*, pp. 1, 7.
- c. December 20, 2024: “[Student] completed the first semester of Basic Math with an 87%.” *Id.*
- d. January 24, 2025: “Goal not met, progress made. [Student] has had scores above 80% on 3 of her last 4 trials in class. On a formal assessment of this skills, she was able to choose the correct operation to solve the problem with 58% accuracy.” *Exhibit A*, p. 39.
- e. February 4, 2025: “Goal met. [Student] has had scores above 80% on 3 of her 4 last trials.” *Exhibit 1*, p. 32.
- f. February 11, 2025: “Goal not met. [Student] has had scores above 80% on 3 of her last 4 trials. On her most recent assessment, she had 38% correct. She chose the correct operations to use 58% of the time.” *Exhibit A*, p. 23.

18. As these varying reports show, Student’s progress on Goal 1 was not measured as required by the IEP. The May 2024, January 2025, and February 2025 reports mention trials, but the fall semester reports from October 2024 and December 2024 report only her class grade for Basic Math overall rather than the targeted tasks. As far as the reports show, Student was not assessed on Goal 1 at all in the fall 2024-2025 semester, and the three reports in the spring semester are inconsistent.

Goal 2: Mathematics (Representing Functions)

19. Student’s Goal 2, for mathematics, stated that she would “be able to represent a function in a table, as an equation, and in a graph with 70% accuracy in 3 out of 4 trials as measured with curriculum-based measures.” *Id.* at p. 6.

20. The “unit of measurement” for measuring progress was “70% accuracy,” to be evaluated with “focused assessments.” *Id.*

21. Student’s progress was reported as follows:

- a. May 23, 2024: “On two recent progress monitoring assessments measuring the ability to represent a function in a table, as an equation, and in a graph, [Student] scored 75% and 33%—the two assessments measured the same content, but presented them in different ways. [Student] is making progress on this goal.” *Exhibit 1*, p. 2.
 - b. October 9, 2024: “In Basic Math [Student] scored a 100% when placing the value of each function on a number line practice. She scored an 80% when completing an absolute value fun[c]tion assignment. [Student] scored a 100% on with (sic) an introduction to exponential functions assignment. [Student] completed a base and exponential function review with 100%.” *Id.*
 - c. December 20, 2024: “[Student] scored 100% on an expanded exponential function assignment. She completed 8 algebraic expressions and earned an 80%. [She] took a quiz on evaluating algebraic functions an[d] scored a 100%. [She] has completed her first semester of Basic Math with an 87%.” *Id.*
 - d. January 24, 2025: “Goal not met. [Student] is not able to represent a function in a table or as an equation. She is able to graph points with 75% accuracy.” *Exhibit A*, p. 39.
 - e. February 4, 2025: “The Basic Math class [Student] is enrolled in has not yet studied equations in a graph. The class will begin working on this skill 4th quarter.” *Exhibit 1*, p. 32.
 - f. February 11, 2025: This repeats the January 24, 2025 report. *Exhibit A*, p. 23.
22. These reports show that Student’s progress on Goal 2 was not consistently measured as required by Student’s IEP. The May 2024, January 2025, and February 11, 2025 reports mention the three targeted tasks—representing a function in the three forms of table, equation, and graph—but they do not state that the tasks were assessed across four trials. The fall 2024-2025 reports do not address the targeted tasks; they instead state Student’s scores on specific unrelated assignments as well as her overall grade in Basic Math for the semester. In combination with Student’s performance on the January 24, 2025 report and the February 4, 2025 report, stating that Student had not studied equations in a graph and would not until the fourth quarter, these reports suggest that Student was not being taught the subject matter of this goal and would not be taught it until the end of the 2024-2025 school year.

Goal 3: Mathematics (Linear Equations)

23. Student’s Goal 3, also for mathematics, stated that she would “be able to substitute values into equations to solve problems with 70% accuracy in 3 out of 4 trials, as measured with curriculum-based measures.” *Id.* at p. 6.

24. The “unit of measurement” for measuring progress was “70% accuracy,” to be evaluated with “focused assessments.” *Id.*

25. Student’s progress was reported as follows:

- a. May 23, 2024: “On two recent progress monitoring assessments measuring the ability to substitute values into equations to solve problems, [Student] scored 65% and 66%—the two assessments measured the same content, but presented them in different ways. [Student] is making progress on this goal.” *Exhibit 1*, p. 3.
- b. October 9, 2024: “Student did not work on this goal. [Student] is in Basic Math. The class has not yet covered variable substitutions. The class is currently studying order of operations. [Student’s] NWEA Math score for the Algebraic Equations subscore rose from a 196 RIT to a 205 this fall.” *Id.*
- c. December 20, 2024: “Student did not work on this goal. [Student] has gone from basic linear equations to more complex equations where she is able to solve problems by substituting values.” *Id.*
- d. January 24, 2025: “Goal not met. [Student] is able to solve linear equations in one variable with 40% accuracy.” *Exhibit A*, p. 39.
- e. February 4, 2025: “The Basic Math class [Student] is enrolled in is beginning to work on variable equations this 3rd quarter.” *Exhibit 1*, p. 32.
- f. February 11, 2025: This repeats the January 24, 2025 report. *Exhibit A*, p. 23

26. These reports show that Student’s progress on Goal 3 was not measured as required by her IEP; none report Student’s performance on the goal task across four trials. The reports state that Student was not being taught the subject matter of this goal in the fall 2024-2025 semester.

Goal 4: Reading

27. Student’s Goal 4, for reading, stated that she would “be able to use context clues to determine the meaning of vocabulary words with 80% accuracy in 3 out of 4 trials, as measured by curriculum-based measures. *Id.* at p. 7.

28. The “unit of measurement” for measuring progress was “80% accuracy,” to be evaluated with “focused assessments.” *Id.*

29. Student’s progress was reported as follows:

- a. May 23, 2024: “On a recent 8th grade reading comprehension assessment administered on 05/20/2024, [Student] scored a 6 out of 7 questions correctly for

vocabulary and context. This is an accuracy percentage of 87% and demonstrates progress made toward this goal.” *Exhibit 1*, p. 4.

- b. October 9, 2024: “[Student] finished Quarter 1 with a 94% in Comp/Lit A, and a 98% in her Reading class. Biology and World Studies vocabulary and reading has been more challenging for [Student] since she has a 78% and a 73% respectively in those core classes. She has struggled with the tests in each of these classes.” *Id.*
 - c. December 20, 2024: “[Student] completed her first semester of Biology with an 81%. She completed her first semester of Comp/Lit 9 with an 85%.” *Id.*
 - d. January 24, 2025: “[Student] is consistently able to determine the meaning of vocabulary words using context clues in her daily classwork. On formal assessment, she had a score of 90% on an 8th grade level assessment.” *Exhibit A*, p. 40.
 - e. February 4, 2025: “[Student] compl[e]ted her first semester of Biology with an 81%. She completed her first semester of Comp/Lit 9 with an 85%.” *Exhibit 1*, p. 32.
 - f. February 11, 2025: “[Student] is consistently able to determine the meaning of vocabulary words using context clues in her daily classwork. On formal assessment, she had a score of 90% on an 8th grade level assessment.” *Exhibit A*, p. 24.
30. These reports show that Student’s progress on Goal 4 was not measured as required by her IEP. The fall 2024-2025 reports, as well as the February 4, 2025 report, improperly explain her class grades rather than her performance on the goal task. The January 24, 2025 and February 11, 2025 reports each mention only a single assessment regarding an unknown eighth-grade-level subject, rather than reporting her performance on four trials testing her ability to perform the goal task.

D. School’s Process for Measuring and Reporting Progress

31. At School—although not elsewhere in District—students’ case managers in the mild-moderate special education program are tasked with measuring and reporting the IEP goal progress for all students on their caseloads, even though those case managers are not necessarily the educators who provide the services (such as specially designed instruction) to the students. *Interviews with Coordinator, Math Teacher, Reading Teacher, District Compliance Consultant, and Case Manager.*
32. This process is used throughout the mild-moderate program. *Id.* In Student’s situation, for example, Case Manager was expected to measure and report Student’s progress for her mathematics and reading goals even though Math Teacher and Reading Teacher were the

educators providing specialized instruction to Student and Case Manager herself was an English Language Arts teacher, not a mathematics teacher. *Id.*

33. At the end of each quarter, Math Teacher and Reading Teacher brought Case Manager a “stack” of graded work for all Case Manager’s students on their loads, including Student; had a brief conversation that did not always give Case Manager much insight into Student’s progress; and Case Manager then sorted through the student work, attempted to match any relevant parts to Student’s goals, and reported progress based on those matches or, when it was difficult to correlate the work with the goals, reported Student’s grade in a class where the target skill (e.g., identifying vocabulary words through context) might be used. *Interviews with Case Manager, Math Teacher, and Reading Teacher.*
34. District and School staff alike indicate that separating measuring/reporting and teaching in this manner can lead to misunderstandings, miscommunications, and an unhelpful distancing between the person measuring a student’s progress and the person who is most familiar with the student’s work. *Interviews with Coordinator, Math Teacher, Reading Teacher, Compliance Consultant, and Case Manager.*
35. Coordinator conducted an internal sampling of progress reports at School. *Interview with Coordinator.* She determined that case managers in School’s mild-moderate program—although not in the other special education programs—frequently, and incorrectly, report class grades in lieu of IEP goal progress. *Interview with Coordinator.*
36. District is working on a new procedure for School’s mild-moderate program that will ensure that the educators responsible for implementing a student’s IEP will understand the type of data to collect and document that data appropriately. *Id.*

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District did not fully implement Student’s IEP from August 7, 2024 to January 15, 2025, because it did not measure and report Student’s progress on her annual goals—specifically, annual goals numbers 1, 2, and 3 for mathematics and annual goal number 4 for reading—consistent with her IEP, as required by 34 C.F.R. § 300.323(c). This resulted in a denial of FAPE.

Parent has alleged that District did not properly measure and report Student’s progress.

A. Requirement to Measure and Report Progress

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." *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 391 (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).

The IEP specifies how a student's progress toward annual IEP goals will be measured and reported. 34 C.F.R. § 300.320(a)(3). A parent's right to participate in the development of their child's educational program requires that they be regularly informed of progress toward IEP goals. See *M.C. v. Antelope Valley Union High Sch. Dist.*, 858 F.3d 1189, 1198 (9th Cir. 2017) ("[I]n enacting the IDEA, Congress was as concerned with parental participation in the *enforcement* of the IEP as it was in its *formation*."). For that reason, school districts must measure a student's progress toward meeting annual goals and periodically report that progress to parents in accordance with the schedule described in the IEP. 34 C.F.R. § 300.320(a)(3). The Office of Special Education Programs has provided additional guidance concerning the importance of sharing progress monitoring data with Parents:

Public agencies may find it useful to examine current practices for engaging and communicating with parents throughout the school year as IEP goals are evaluated and the IEP Team determines whether the child is making progress toward IEP goals. IEP Teams should use the periodic progress reporting required at 34 C.F.R. § 300.320(a)(3)(ii) to inform parents of their child's progress. Parents and other IEP Team members should collaborate and partner to track progress appropriate to the child's circumstances.

Questions and Answers (Q&A) on *U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1*, 71 IDELR 68 (OSEP 2017).

B. Measuring and Reporting of Student's Progress

Student's IEP stated the specific methods by which Student's progress on her annual goals would be measured. (FF #s 15-30.) As the findings of fact show, and District concedes, Student's progress on Goals 1 through 4 was not measured or reported according to the methods stated in her IEP. (FF #s 4, 15-30.)

Student's IEP required District to give Parent a progress report every quarter. (FF # 14.) However, Parent was not given reports each quarter, and she needed to email Case Manager to obtain them. (*Id.*)

Accordingly, the SCO finds and concludes that District did not implement the progress measuring and reporting requirements of Student's IEP, resulting in noncompliance with 34 C.F.R. § 300.323(c).

C. Materiality of Noncompliance

A lapse in implementing an IEP is a denial of FAPE where the lapse concerns a “material,” “essential,” or “significant” provision of a student’s IEP. See, e.g., *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist.* 5J, 502 F.3d 811, 822 (9th Cir. 2007) (concluding consistent with “sister courts . . . that a material failure to implement an IEP violates the IDEA”); *Neosho R-V Sch. Dist. v. Clark*, 315 F.3d 1022, 1027 (8th Cir. 2003) (holding that failure to implement an “essential element of the IEP” denies a FAPE); *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000) (ruling that failure to implement the “significant provisions of the IEP” denies a FAPE). “A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child’s IEP.” *Van Duyn*, 502 F.3d at 822. The materiality standard “does not require that the child suffer demonstrable educational harm in order to prevail.” *Id.* But a child’s educational progress, or lack thereof, may indicate whether there has been more than a “minor shortfall in the services provided.” *Id.*

The lack of proper measuring and reporting meant that Parent had no way to know whether Student was being taught the subject matter of her goals as provided by the IEP’s services section, and she also could not know whether Student was making progress or not. (FF #s 12-30, 31-36.) This prevented Parent from participating in Student’s education because she could not see if Student’s IEP was being implemented or whether the IEP needed to be revised to account for lack of progress. See *Antelope Valley*, 858 F.3d at 1198 (holding that a key aspect of the IDEA is enabling parents to enforce IEPs). Parental participation is core to the IEP process, and the provisions of Student’s IEP enabling Parent’s participation—particularly the measuring and reporting provisions—were “material,” “essential,” and “significant.”

This noncompliance arose from School’s process for measuring and reporting progress in the mild-moderate program. (FF #s 31-36.) Specifically, case managers are tasked with measuring and reporting progress on goals even when they are not the individuals delivering services for those goals. (*Id.*) District’s internal sampling of progress reports found that case managers in School’s mild-moderate program often incorrectly used students’ class grades as a measurement for their progress rather than the measurement required by those students’ IEPs. (*Id.*) Accordingly, this process both resulted in noncompliance for Student as well as creating an issue systemic to School’s mild-moderate program; this systemic impact is discussed further below, and a systemic remedy is awarded.

Additionally, because Student’s progress reports show that Student was not provided all her specialized instruction in mathematics, see FF #s 21(e), 22, 25(e), 26, compensatory education of eleven hours is awarded to Student. See *Reid v. Dist. of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005) (compensatory education may be awarded to restore a student to the position she would be in had there been no noncompliance).

Systemic IDEA Noncompliance: This investigation demonstrates noncompliance that is systemic and likely to impact the future provision of services for all students in School’s mild-moderate program if not corrected.

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

As explained, School uses a process for measuring and reporting progress for students in the mild-moderate program wherein each case manager is given responsibility for measuring and reporting students’ progress on IEP goals even when those case managers are not responsible for implementing services for those goals. (FF #s 31-36.) This issue impairs measuring and reporting of IEP goals for all students within School’s mild-moderate program. (*See id.*) Accordingly, District must develop a new procedure for measuring and reporting IEP goal progress for students in School’s mild-moderate program, and the staff at School’s mild-moderate program must receive training in goal measuring and reporting.

REMEDIES

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

1. Fully implementing Student’s IEP, as required by 34 C.F.R. § 300.323(c).

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

1. Corrective Action Plan

- a. By **May 8, 2025**, District shall submit to the CDE a corrective action plan (“CAP”) that adequately addresses the noncompliance 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 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 District’s timely correction of the areas of noncompliance.

2. Final Decision Review

- a. District Special Education Director, Compliance Consultant, Coordinator, Case Manager, Reading Teacher, and Math Teacher must each read this Decision in its entirety, as well as review the requirements of 34 C.F.R. §§ 300.320 and 300.323(c) by **May 16, 2025**. If these individuals are no longer employed by the District, the District may substitute individuals occupying identical roles to demonstrate

compliance with this remedy. A signed assurance that this information has been read and reviewed must be provided to the CDE no later than **May 23, 2025**.

3. Procedure Development

- a. District must develop a written procedure for properly measuring and reporting progress at School. This procedure must be consistent with 34 C.F.R. §§ 300.320(a)(3) and 300.323(c). This procedure may be an existing procedure used elsewhere in District for measuring and reporting progress at other schools. The procedure must be submitted to the CDE by **June 6, 2025**.
- b. Any proposed procedure must be submitted to CDE Special Education Monitoring and Technical Assistance for review and approval prior to being finalized.
- c. Upon approval, the District must ensure that all case managers and special education teachers at School receive a copy of the new procedures no later than **August 7, 2025**. Evidence that the procedures were shared with staff, such as a copy of the email sent, must be provided to the CDE no later than **August 13, 2025**.
- d. District must monitor implementation of the new procedure at School for the entirety of the 2025-2026 school year by conducting quarterly reviews for compliance. Such reviews must entail, at a minimum sampling progress monitoring and reporting in the mild-moderate program. Following each quarterly review, **within two weeks of completion of the review**, District must submit proof to the CDE that the review occurred. Such proof shall include at a minimum a summary of the method of review, the names of the students whose records were sampled, the results of the review, and any next steps assigned as a result of the review.

4. Training

- a. All case managers and special education teachers in the mild-moderate program at School must attend and complete training provided by the CDE on measuring and reporting progress. This training will address, at a minimum, the requirements of 34 C.F.R. § 300.320(a)(3) and 300.323(c).
- b. District Special Education Director (“Director”) or his designee and CDE Special Education Monitoring and Technical Assistance Consultant will determine the time, date, and format of the training. This training may be conducted in-person or through an alternative technology-based format, such as video conference, web conference, webinar, or webcast.
- c. Such training must be completed no later than **August 8, 2025**. Evidence that this training occurred must be documented (i.e. training schedule(s), legible attendee sign-in sheets, or other form of documentation, with names, titles, and signed

assurances that they attended the training) and provided to the CDE no later than **August 15, 2025**.

5. Compensatory Education Services

- a. Student will receive eleven hours of compensatory education targeting her IEP mathematics goals.
- b. All compensatory services must be provided to Student no later than **one year from the issue date of this Decision**.
- c. By **May 9, 2025**, District must request consent for the provision of compensatory services from Parent. By **May 16, 2025**, Parent shall provide written consent for the provision of compensatory services to the CDE and the District. If Parent does not provide written consent for services by this date, District will be excused from providing compensatory services. Unless otherwise specified by District, this written consent shall be provided by Parent to Director. District must then provide the written consent to CDE Special Education Monitoring and Technical Assistance Consultant.
- d. If written consent for the provision of compensatory services is received by **May 16, 2025**, District shall schedule compensatory services in collaboration with Parent. District shall submit the schedule of compensatory services to the CDE by **May 28, 2025**. A meeting is not required to arrange this schedule, and the parties may collaborate, for instance, via e-mail, telephone, video conference, or an alternative technology-based format to arrange for compensatory services. The schedule shall include the dates, times, and durations of planned sessions.
 - i. The parties shall cooperate in determining how compensatory services will be provided. If Parent refuses to collaborate with District within this time, District will be excused from delivering compensatory services to Student, provided that District diligently attempts to meet with Parent and documents such efforts. A determination that District diligently attempted to collaborate with Parent and should thus be excused from providing compensatory services to Student rests solely with the CDE.
 - ii. District may, at its discretion, provide more than the above-assigned amounts of compensatory services. Parent may waive, in writing, 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 Student. If Parent so waives Student's participation, District shall submit the written waiver to the CDE.

- iii. Any delay in beginning the provision of compensatory services must be approved by the CDE.
 - iv. If the District and Parent cannot agree to a schedule by **May 28, 2025**, District and Parent must meet either in-person or via video conference to resolve scheduling complications by **June 4, 2025** and submit the schedule by **June 9, 2025**.
 - v. If the District and Parent cannot, despite meeting, agree to a schedule by **June 4, 2025**, the District must submit to the CDE all documentation evidencing diligent attempts to schedule the compensatory services in collaboration with Parent, including but not limited to, copies of correspondence sent to Parent and any responses received (such as e-mails), contact logs (such as records of telephone calls made or attempted and the results of those calls), and meeting notes, by **June 9, 2025**.
 - vi. If the District and Parent cannot agree to a schedule, by **June 23, 2025**, the CDE will, in its sole discretion, either determine the schedule for compensatory services or determine that District is excused from providing the compensatory services to Student.
- e. Monthly consultation between the provider(s) delivering compensatory services and Student's case manager shall occur to evaluate progress towards IEP goals for Student and adjust instruction accordingly. The purpose of this consultation is to help ensure that compensatory services are designed and delivered to promote progress on IEP goals. District must submit documentation that these consultations have occurred **by the second Monday of each month**, once services begin, until compensatory services have been completed. Consultation logs must contain the name and title of the provider and the date, the duration, and a brief description of the consultation.
 - f. To verify that Student has received the services required by this Decision, District must submit records of service logs to the CDE **by the second Monday of each month** until all compensatory services have been furnished. The name and title of the provider, as well as the date, the duration, and a brief description of the service must be included in the service log.
 - g. These compensatory services will be in addition to any services Student currently receives, or will receive, that are designed to advance them toward IEP goals and objectives. These compensatory services must be provided to Student outside of the regular school day (such as before and/or after school, on weekends, or during school breaks) to ensure they are not deprived of the instruction they are entitled to (including time in general education).

- h. If for any reason, including illness, 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 Parent and notify the CDE of the change in the appropriate service log.

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
201 E. Colfax Avenue
Denver, CO 80203

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

CONCLUSION

The Decision of the CDE is final and is not subject to appeal. *CDE 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 State Complaints Officer (“SCO”).

Dated this 8th day of April, 2025.



Nicholaus Podsiadlik
State Complaints Officer

APPENDIX

Complaint, pages 1-12

- Exhibit 1: Student Records

Response, pages 1-2

- Exhibit A: IEPs
- Exhibit B: Evaluations
- Exhibit C: Notices of Meeting
- Exhibit D: PWNs
- Exhibit F: Schedules, Report Cards, and Attendance
- Exhibit G: Progress Reports
- Exhibit H: Service Logs
- Exhibit I: Calendar
- Exhibit J: Policies
- Exhibit K: Correspondence

Reply, pages 1-4

- Exhibit 2: Student Records
- Exhibit 3: Correspondence
- Exhibit 4: Student Records

Telephone Interviews

- Special Education Teacher: March 24, 2025
- District Coordinator: March 24, 2025
- Compliance Officer: March 24, 2025
- Reading Teacher: March 24, 2025
- Math Teacher: March 24, 2025
- Parent: March 24, 2025