

State-Level Complaint 2010:501

Rio Blanco BOCES

Decision

INTRODUCTION

This Complaint was brought pursuant to the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153. The undersigned State Complaints Officer (SCO) has determined that the SCO has the jurisdiction to resolve the Complaint pursuant to those same regulations.

The Complaint was properly filed in the office of the SCO on 01/07/2010 by the (Parents), (Mother) and (Father), of (Child).

The SCO sent a Complaint Notification letter with a copy of the Complaint and an attachment to the Board of Cooperative Educational Services (BOCES) via Federal Express/Overnight delivery on 01/07/2010. Delivery confirmation established that the BOCES received this packet on 01/08/2010.

The BOCES' Response was timely received by the SCO on 01/21/2010.

The Complainant's Reply to the BOCES' Response was timely received by the SCO 02/04/2010.

Due to the sharp disputes of fact, the SCO conducted on-site interviews with BOCES staff and Parents on 02/09/2010. During the interviews, the SCO requested additional information from the BOCES and Parents. The requested information was received on 02/19/2010.

The SCO closed the record on 02/22/2010.

ISSUES

The issues raised in the Complaint from the time period of 01/07/2009 to 01/07/2010 that are subject to the jurisdiction of the SCO are as follows:

- I. Whether the BOCES failed to appropriately evaluate Child.
- II. Whether the BOCES inappropriately classified Child with the disability of autism.
- III. Whether the BOCES failed to appropriately develop an Individualized Education Program (IEP) with sufficient services necessary to provide Child with a FAPE.

COMPLAINANT ALLEGATIONS

Parents' allegations were concerning Child's initial evaluation 02/09/2009, subsequent assessments conducted in May 2009, Child's disability classification of autism, and IEPs developed by the BOCES 02/09/2009 through 07/20/2009. Parents' allegations are summarized below:

- I. The BOCES failed to appropriately evaluate Child. Specifically, the BOCES –
 - Did not discuss evaluation results with Parents; and
 - Intentionally misrepresented evaluation information contained in Child's IEP, particularly dates of the administration of assessments.
- II. The BOCES inappropriately classified Child's as having autism. Specifically, the BOCES –
 - Changed Child's disability classification to autism without consulting the Parents; and
 - Did not have staff qualified to make a diagnosis of autism.
- III. The BOCES failed to appropriately develop an IEP with sufficient services necessary to provide a FAPE. Specifically, the BOCES –
 - Failed to consult with the Parents before completing the IEP;
 - Failed to provide the recommended intensive remediation for Child's speech and language needs; and
 - Failed to provide sufficient ESY services to meet Child's needs.

BOCES RESPONSE

The BOCES' Response is summarized as follows:

- I. The BOCES appropriately evaluated Child. Specifically, the BOCES –
 - Properly provided prior written notice and obtained consent from Mother to evaluate Child; as well as provided Mother with the Procedural Safeguards;
 - Properly conducted an evaluation of Child on 02/09/2009 using Toni Linder's Play Based Assessment and a Child Development Inventory which was completed by the Mother;
 - Had qualified staff conduct the assessments; and
 - Convened an eligibility meeting immediately following the evaluation on 02/09/2009 and reviewed the evaluation data.
- II. The BOCES' Multidisciplinary Team (MDT) and Mother appropriately determined Child's disability classification of autism at the 02/09/2009 eligibility meeting. However, the MDT subsequently considered additional assessments because Child

rapidly progressed while receiving services and attending preschool. Further, the BOCES asserts –

- Child was further assessed in May, but the results of the assessments were mixed.
- The results of the additional assessments conducted in May were shared with Mother during an IEP review on 05/18/2009.
- In May 2009, the team considered meeting again to discuss whether Child should continue to be classified with the disability of autism.
- The BOCES offered a reevaluation at the BOCES's expense to determine whether Child had the appropriate disability classification.

III. The BOCES appropriately provided special education and related services to Child in accordance with IDEA and the Rules for the Administration of the Exceptional Children's Educational Act (ECEA). Further Child's IEPs –

- Appropriately identified the special education service time Child was to receive based on Child's needs and IEP goals as agreed upon by the full IEP team; and
- Indicated the total number of hours of Extended School Year (ESY) services that would be provided, even though there was not enough data on Child's regression and recoupment over breaks due to Child's numerous absences.

IV. The BOCES did not specify the dates when ESY services would be provided to Child in Child's IEP. However, Mother would not allow ESY services to begin until after an IEP meeting was held. The meeting to review Child's IEP was held 07/20/2009. At the meeting, the IEP team developed a plan to deliver ESY services. All ESY services indicated on Child's IEP were subsequently provided to Child.

V. Also during the 07/20/2009 meeting –

- IEP goals were refined and added;
- IEP present levels of performance and needs were updated; and
- Meeting notes were maintained.

Mother contacted the BOCES for a copy of the IEP from the 07/20/2009 meeting. In response to Mother's request, the BOCES explained that a new IEP had not been written because the team did not make any changes other than refining some of the IEP goals. However, the BOCES provided Mother with the revised IEP as requested.

VI. Mother contacted consultants at the Colorado Department of Education regarding the appropriateness of the services Child was receiving. According to an email from one CDE consultant to the BOCES, the CDE consultant explained to Mother that one hour of speech therapy time per week was typical for a preschooler with autism because the interventions would extend through the hours Child was in preschool.

- VII. Child missed numerous days of preschool. Child returned to preschool at the beginning of the 2009-2010 school year, but Child's attendance was sporadic. Child did not return to preschool after 09/25/2009. On 11/17/2009, the BOCES notified Parents via a letter that Child was being withdrawn from preschool due to lack of attendance.
- VIII. Child made progress with the services identified in the IEP despite Child's numerous absences. Child's progress was demonstrated by Creative Curriculum Reports, preschool anecdotal records, and Parent reports. However, the BOCES was unable to document progress on Child's IEP goals due to Child's frequent absences.

PARENTS REPLY

The Reply is summarized as follows:

- I. The BOCES did not provide Parents with the evaluation report from the formal autism assessment conducted on 05/18/2009 nor did the BOCES review the assessment results with Mother on that date. The first time Parents had an opportunity to review the autism evaluation report was when Parents received the BOCES Response.
- II. In its Response, the BOCES did not provide Parents with the qualification of the persons conducting the evaluations. Further, the BOCES did not identify when or who diagnosed Child with autism.
- III. Child's initial IEPs indicated that Child's disability classification was preschool child with a disability. The BOCES service providers did not suggest the disability of autism to Parents until 04/22/2009. The BOCES did not explain to Parents why Child's disability classification was changed to autism.
- IV. There was no evidence of Child's progress. The BOCES did not provide Parents with reports on Child's progress. The only information regarding Child's progress Parents received was from the BOCES' Response to the Complaint.
- V. The BOCES Response misrepresented the number of days Child was absent. The number of reported absences was inconsistent among the documentation in the BOCES Response.
- VI. The BOCES did not timely provide Parents with the 07/20/2009 IEP or IEP meeting notes. The BOCES maintained that the 07/20/2009 meeting was not an IEP meeting. The 07/20/2009 IEP and IEP meeting notes were not provided to Parents until 40 days after the meeting.

FINDINGS OF FACT

After thorough and careful analysis of the entire record,¹ the SCO makes the following FINDINGS of Fact:

¹ Decision Appendix A, pp. 24-25, which is incorporated by reference, details the record (Record) from which the Findings were determined in this case.

Background

1. At the time of the filing of the Complaint, Child was three years and eight months old. Child resides in one of the BOCES member school districts.
2. Mother initially contacted the BOCES for an evaluation in January 2009 because of concerns about Child's lack of speech. At the time of the request, Child was two years and nine months old. The BOCES evaluated Child under Part B of the IDEA because Child was nearly three years old.

02/09/2009 Initial Evaluation

3. Parents received a *Prior Notice and Consent to Evaluate* form from the BOCES on 02/03/2009. The notice indicated that Child would be evaluated in the areas of physical, cognitive, psychological, and speech and language. The consent to evaluate was signed by both Parents on 02/04/2009. The notice indicated that the form was received by the BOCES on 02/09/2009.
4. The SCO conducted an interview with the BOCES service providers involved in the evaluation. The BOCES service providers each stated that they did not visit Child prior to the evaluation. The Speech Language Pathologist (SLP) and the Preschool Teacher (Teacher) stated that they did not have enough information about Child, and therefore assessed Child in all areas. There was no indication in the record that screening activities were conducted to identify areas requiring focused assessment in Child's evaluation or that Parents were contacted prior to the evaluation.
5. Child's initial evaluation was conducted 02/09/2009. The BOCES multidisciplinary team (MDT) members who conducted the assessment included –
 - a. Occupational Therapist (OT). The OT was licensed through the Colorado Department of Education (CDE) as a Kindergarten through 12th grade (K-12) occupational therapist and was certified as an occupational therapist registered by the National Board for Certification in Occupational Therapy. The OT had 37 years of experience as an occupational therapist and had worked with approximately 50 children with disabilities on the autism spectrum.
 - b. Speech Language Pathologist (SLP). The SLP was licensed through CDE as a speech language pathologist for children ages birth through age twenty one. The SLP had 15 years experience as a speech language pathologist and had worked with approximately ten children with autism.
 - c. School Psychologist (Psychologist). The Psychologist was licensed through CDE as a K-12 school psychologist. The Psychologist had been with the BOCES for six years and has worked with 20-30 children with mild to severe autism.
 - d. Preschool Teacher (Teacher). The Teacher had been in the BOCES one year. The Teacher was licensed through CDE as an elementary and early childhood teacher. Teacher was approved to teach early childhood special education under temporary teacher eligibility.

6. On 02/09/2009, the MDT conducted Toni Linder's play based assessment. The assessment provided developmental information in four domains: "sensorimotor;" emotional and social; communication and language; and cognition. The assessment was conducted over a period of approximately one to two hours. Both Child and Child's sibling (Sibling) were assessed during this period. Mother was also involved in the administration of this assessment.
7. The sole qualification to administer the play based assessment was a professional familiar with early childhood development. The SCO finds that the MDT members were qualified to administer the play based assessment conducted on 02/09/2009.
8. During the 02/09/2009 evaluation, Mother was given a Child Development Inventory (CDI). The CDI consisted of a 300 item questionnaire that assesses the development, symptoms and behavior problems of young children ages fifteen months to six years. The CDI assessed skills in the areas of social, self help, gross motor, fine motor, expressive language, language comprehension, letters, numbers, and general development. In an interview with the SCO, Mother stated that she completed the CDI on the evening after the play based assessment was conducted and returned the information to the BOCES the following day. Given the length of the CDI and Mother's participation in the play based assessment, the SCO finds Mother's statement about completing the CDI the evening following the assessment credible.
9. The MDT did not conduct any specific speech language assessment even though Child's lack of speech was Mother's primary area of concern. In an interview with the SCO, the SLP stated that the SLP considered administering the Goldman Fristoe articulation test in May 2009 after the Child's initial assessment, but decided against it because Child was nonverbal. This was the only formal speech assessment that was considered for assessing Child's speech language needs.
10. Although the initial evaluation provided information about Child in a variety of areas, the SCO finds that the evaluation was not individualized to Child. Further, the CDI had not been completed at the time of the eligibility determination. Therefore, the SCO finds that the play based assessment was the sole criterion used for the determination of Child's eligibility for special education. While the assessment used in the initial evaluation provided general information about Child's communication and language abilities, the SCO finds that Child was not specifically assessed in speech language – the specific area of suspected disability.

02/09/2009 Eligibility Determination

11. Immediately following the 02/09/2009 evaluation, the MDT and Mother met to discuss the results of the play based assessment and determine Child's eligibility for special education and related services. The SCO finds that the results of the play based assessment were discussed with Mother.
12. The evaluation report was subsequently provided to Parents on 03/16/2009. The assessments revealed that Child had global delays in all areas. Relevant information in the evaluation report indicated that Child –
 - a. Explored and was curious about [CHILD'S] environment;
 - b. Had no problems interacting with the teachers in the room;

- c. Was very affectionate with Mother and Sibling and gave lots of hugs and kisses to both;
- d. Would make unusual facial expressions when exploring and finding a new toy or something [CHILD] likes;
- e. Did not display any imaginative play;
- f. Was able to imitate some fine and gross motor movements;
- g. Had difficulty with balance and showed decreased postural control;
- h. Would not respond to the evaluator's directives, but would comply when Mother repeated the directive;
- i. Was able to follow one-step directions and completed simple tasks when asked;
- j. Made a lot of animal sounds;
- k. Had utterances of mostly guttural vocalizations and mostly used "ak" as an utterance;
- l. Was observed to use very little meaningful language, but attempted to imitate the evaluator intermittently; and
- m. Was most impaired in the broad area of pragmatic language.

The evaluation report did not document any qualitative impairment in Child's social interactions or restricted repetitive and stereotyped patterns of behavior interests or activities.

13. In interviews with the SCO, MDT members offered divergent accounts of the discussions that occurred in the 02/09/2009 eligibility meeting. The Teacher and the SLP both stated that autism was discussed with Mother at the meeting. However, the Psychologist stated that although autism was suspected by MDT team members, it was not discussed at that time. The OT also stated that autism was not discussed and that the MDT members wanted to wait to see how Child progressed in preschool. Mother also stated that autism was not raised at that time. The SCO finds that the possibility that Child had autism was not raised to Mother during the 02/09/2009 eligibility meeting. The SCO further finds that, despite suspicions that Child had autism; the MDT did not continue the evaluation and instead continued determining Child's eligibility for special education.
14. In interviews with the SCO, the SLP and the OT were unsure of the disability classification under which the Child was initially determined eligible for special education. However, the Psychologist and the Teacher stated that Child was initially determined eligible for special education under the disability classification of a preschool child with a disability. According to a handwritten eligibility determination completed at the 02/09/2009 eligibility meeting, the MDT members found Child eligible for special education under the classification of a preschool child with a disability. Therefore, the SCO specifically finds that Child was initially identified as

eligible for special education under the disability classification of a preschool child with a disability at the 02/09/2009 eligibility meeting.

02/09/2009 IEP Meeting

15. At the 02/09/2009 meeting, the MDT and Mother developed an IEP for Child. The SCO finds that the MDT members and Mother satisfied the requirements for an IEP team and that an IEP meeting was held 02/09/2009.
16. The IEP that was developed on 02/09/2009 was a draft, handwritten document. A copy of the draft IEP was provided to Mother. The IEP team and Mother understood that the IEP goals would be refined and a finalized IEP document would be provided to Parents.
17. The draft IEP had 6 goals –
 - a. "Transition between activities."
 - b. "Focus attention span when addressing Child."
 - c. "Child will increase expressive/receptive one word vocabulary."
 - d. "Participate in meaningful play."
 - e. "Child will demonstrate improved support/stability as shown by (a) playing in [half] kneeling position and getting up/down using [half] kneeling for transition."
 - f. "Child will (a) catch and throw a playground size ball from five feet (four out of five times) and (b) kick a ball with either foot when rolled slowly."
18. The draft IEP indicated that Child would receive –
 - a. One hour per week of direct services and fifteen minutes per week of indirect consultation from the SLP;
 - b. Twenty minutes per week of direct services and ten minutes per week of indirect consultation from the OT; and
 - c. One hour per week of direct services and fifteen minutes per week of indirect consultation from the Teacher for accessing instruction.
19. In interviews with the SCO, each service provider was asked how services were generally delivered to children in the preschool. The OT and the Teacher stated that services were determined based on the individual needs of each child. However, the SLP stated that one hour of direct services via pull-out and fifteen minutes of consultation with the Teacher to carry out speech language activities were generally provided for children of Child's age. The SCO finds that the speech language services in Child's IEP were not individualized based on Child's needs.
20. The Psychologist and the Teacher stated that Mother was involved in the discussions about Child's special education services and that Mother did not object to the level of services. However, the events on 02/09/2009 were Mother's first experience with

special education. In an interview with the SCO, Mother stated that although she agreed with the services proposed at that time, she had no point of reference to determine the sufficiency of the proposed services for Child.

21. There were several sections of the 02/09/2009 draft IEP that had not been completed: placement in the least restrictive environment; general education services for children ages three to five; and the extended school year (ESY) determination. In interviews with the SCO, the MDT members stated that the preschool placement was discussed with Mother on 02/09/2009. However, the record did not demonstrate that ESY services were discussed at the 02/09/2009 meeting.

Second IEP

22. Child began preschool on 02/24/2009. Child attended preschool for the four half days that the preschool was in session that week. However, Child did not attend preschool for the full month of March due to a family emergency and Mother's concerns about the preschool environment. Mother refused to return Child to preschool until the safety issues were addressed. In mid March or early April 2009, Mother met with the Teacher and School Principal to discuss concerns about the safety of the preschool environment. Mother was given a finalized copy of the IEP (Second IEP) at this "safety" meeting.
23. The Second IEP was dated 02/09/2009 was typewritten and included an evaluation report dated 03/16/2009 which summarized the findings of Child's initial evaluation. The Second IEP had refined versions of the initial six goals which were written in more specific and measurable statements than the previous language of the draft IEP. The Second IEP also had additional goals in the area of speech language:
 - a. Child will learn to ask for, respond to, and give information. Child will orally use all forms of question words and will respond to all forms of questions four out of five opportunities.
 - b. Child will learn to respond to and to use non-verbal communication skills including facial cues, body language, and tone of voice four out of five opportunities.
24. In an interview with the SCO, the SLP acknowledged that the new goals were not discussed in the 02/09/2009 IEP meeting and that the goals were added to the IEP without consulting with Parents.
25. The Second IEP indicated that the least restrictive environment and general education services for Child was the integrated preschool. The ESY determination in the Second IEP was completed and indicated that Child was not eligible for ESY services.
26. The Second IEP also included a revised prior notice and consent for evaluation form dated 02/03/2009. The revised prior notice indicated that Child would be evaluated in the areas of sensory/motor, speech/language, and social/emotional. This form was not signed, but Parents names were typed in the signature line with a date of 02/04/2009.

Autism Identification and Third IEP

27. According to Parents, on 04/22/2009, the SLP told Mother that Child was on “the spectrum.” Mother asked the SLP to clarify what the SLP meant and directly asked the SLP “do you mean autism?” The SCO finds Parents’ description of the events leading up to the initial communication of concerns about autism on 04/22/2009 credible for three reasons. First, there was no consensus between MDT members of whether autism was discussed at the initial evaluation (see Finding of Fact² 13). Secondly, all assessments for autism were conducted subsequent to 04/22/2009. Finally, a 06/25/2009 email from Parents to the BOCES Special Education Director (Sped Director) specifically indicated that Parents were first made aware of autism concerns on 04/22/2009.
28. After being told that Child had autism in April, Mother requested that a Modified Checklist for Autism in Toddlers (MCHAT) be completed. The MCHAT was a validated screening tool that consists of 15 “yes” or “no” questions used to assess a child’s risk of autism spectrum disorders. Mother completed the MCHAT on 05/05/2009. The results of the MCHAT were negative for autism.
29. On 05/06/2009, the Psychologist completed a Childhood Autism Rating Scale (CARS). The CARS is a fifteen item behavior rating scale that helps to identify and classify children with autism. According to the Psychologist, Child’s scores for autism were in “likely range” in the area of verbal communication and “mildly high” in the area of nonverbal communication. The Psychologist explained that the higher the score, the higher the indication of autism. The results of the CARS indicated Child had Mild/Moderate autism.
30. The BOCES also retained the services of a private autism consultant (Consultant) to assess Child in May 2009. The Consultant had an extensive background in autism and had provided autism consultation to numerous school districts in the State. The Consultant was trained by Western Psychological Services in administering the Autism Diagnostic Observation System (ADOS). The SCO finds that the Consultant was trained and knowledgeable to administer the ADOS assessment.
31. The ADOS assessment consists of activities that allow observation of social and communication behaviors related to the diagnosis of pervasive developmental disorders. The ADOS is a more comprehensive assessment used for diagnosing autism and pervasive developmental disorders.
32. On 05/18/2009, the Consultant completed an ADOS assessment of Child. Although the ADOS results indicated Child met the cut-off for autism in the area of communication, Child did not meet the cut-off for autism in the social interaction category. According to the Consultant’s ADOS summary report, both categories must be met for a diagnosis of autism. The Consultant found that Child did not meet the criteria for autism based on the ADOS. In an interview with the SCO, the Consultant stated that the BOCES staff may have “jumped the gun” when they identified Child with autism. However, in the ADOS summary report, the Consultant reiterated that Child had expressive communication deficits that must be addressed.

² Hereinafter FF.

33. Although Mother specifically requested that the MCHAT be completed, the SCO finds that Parents' consent was not obtained prior to conducting the formal autism assessments that were administered in May 2009.
34. In its Response, BOCES asserted that an IEP meeting was held to review the autism assessment results on 05/18/2009. However, in an interview with the SCO, the Consultant stated that the results of the ADOS had not yet been scored. The Consultant only briefly spoke with Mother after the assessment. Further, Mother did not recall a meeting on 05/18/2009. The documents in the record do not support a conclusion that an IEP meeting was held on that date. Therefore, the SCO finds that no IEP meeting was held on 05/18/2009.
35. In May 2009, Mother contacted the Sped Director regarding summer services. Although there was no information on whether Child regressed during breaks in attendance, the Sped Director offered six hours of speech language services over the summer. However, the frequency of the services and when the services would begin were not specified to Parents. Of the documentation in the record, there is no indication that an IEP meeting was held or that Child's needs were considered in the offer of six hours of speech language services.
36. According to Parents, they received a Third IEP in early June 2009. Like the previous IEPs, the Third IEP was dated 02/09/2009. According to the Sped Director and the Teacher, the Teacher did not know how to use the computerized IEP system which resulted in the same date appearing on the IEPs provided to Parents. The inaccurate IEP information caused confusion for both Parents and BOCES staff. The SCO finds that the IEP inaccuracies were due to unintentional errors and that the BOCES did not intentionally misrepresent information in the IEP.
37. The Third IEP –
- a. Indicated autism as Child's disability classification;
 - b. Included a new ESY determination that indicated that Child was eligible for ESY services and with a justification for ESY services dated 05/13/2009. However, the number of hours of ESY services was not specified;
 - c. Included a prior notice of special education action and a prior notice and consent for the initial provision of special education and related services which was signed by Mother and had a typewritten date of 02/09/2009. According to the notices, the proposed actions were based on the CDI, MCHAT, CARS and play based assessments; and
 - d. Had no changes to Child's special education and related services despite the change to Child's disability classification.
38. The Third IEP included a completed eligibility determination form for the disability classification of autism dated 02/09/2009 which was signed by the MDT members and Mother. It is unclear when this eligibility determination form was generated and signed because of the divergent accounts of when documents were signed and inaccurate the dates in the IEP documents. Therefore, the SCO cannot make a finding specifically as to when Child's disability classification was changed to autism other than that it occurred prior to June 2009.

39. Although Mother signed the eligibility determination form for the autism classification, the evaluation results had not been discussed with Parents after the autism assessments had been conducted (see FF 34). Therefore, the SCO finds that Parents did not have the information necessary to fully participate in changing the Child's disability classification to autism.
40. An evaluation report was included in the Third IEP. This evaluation report was dated 3/16/2009 and had the exact narrative content of the evaluation report from the initial evaluation. However, the evaluation report listed the additional autism assessments of CARS and MCHAT and indicated that the assessments had been administered on 02/09/2009.
41. Also attached to the Third IEP was a separate undated document titled *BOCES Evaluation Report*. The *BOCES Evaluation Report* accurately reflected the assessments administered and the dates of the assessments. The *BOCES Evaluation Report* contained the numeric scores for the CARS, ADOS, and CDI, but provided no explanation of the meaning of the scores.
42. In the interview with the SCO, the Consultant stated that he typically gives a summary report of the ADOS assessment to BOCES staff. However, the Teacher stated that the Consultant was supposed to send the ADOS summary report to Parents. Parents stated that they had not seen the ADOS summary report until the BOCES responded to the Complaint. Parents further stated that if they had previously seen the ADOS summary report they would have objected to changing Child's disability classification to autism.
43. In interviews with the BOCES staff, the SCO specifically asked MDT members about the three eligibility criteria for the autism disability classification. The MDT members responded as follows:
 - a. Qualitative impairment in the area of social interactions. MDT members stated that Child did not interact with others. However, these statements were contrary to the 03/16/2009 evaluation report which indicated that Child had no problems interacting with teachers and was affectionate toward Mother and Sibling (see FF 12b-c).
 - b. Qualitative impairment in the area of communication. All MDT members stated that Child had significant deficiencies in the areas of expressive speech and articulation. The evaluation report documented Child's impairment in the area of communication.
 - c. Restricted repetitive and stereotyped patterns of behaviors, interests and activities. The Sped Director, Teacher, SLP, and Psychologist each described Child's unusual facial movements as a characteristic of autism. Although Sped Director stated that Child exhibited self stimulatory hand movements, this behavior was not documented in the evaluation report. The SLP and the Psychologist stated that Child had a restricted scope of interest in trucks. However, this restricted scope of interest was not documented in the evaluation report. Additionally, the Consultant did not observe Child demonstrating any restricted repetitive or stereotypical behaviors while conducting the ADOS.

44. The SCO finds the BOCES erred when it reclassified Child's disability to autism for the following reasons. The sole assessment that indicated positive results for autism was a fifteen question behavior rating scale (see FF 26), while the more comprehensive assessment – the ADOS was inconclusive for autism (see FF 29). Finally, there was no documentation that Child had impairments in the area of social interactions or restricted repetitive and stereotyped patterns of behaviors and interests (See FF 43).

2008-2009 School Year

45. The 2008-2009 school year ended on 05/22/2009. From the time Child resumed preschool on 04/03/2009 until the end of the school year, Child was absent 12 of 27 days. Child attended preschool a total of 19 of 46 days during the 2008-2009 school year.
46. Despite Child's absences in the 2008-2009 school year, the BOCES staff and Parents reported that Child had improved. In interviews with the SCO, BOCES staff stated that Child had dramatically improved interactions with peers and adults and increased verbal exchanges during this period. Parents also stated that Child had improved communication skills. The BOCES staff and the Consultant attributed Child's improvement to Child's preschool attendance. In an interview with the SCO, the Consultant stated that Child especially needed the opportunity for the social interaction available in a preschool setting.
47. Parents emailed the Sped Director on 06/22/2009. In the email, Parents cited a report by the National Research Council (NRC) regarding the intensity of services that were recommended for children with autism. The NRC report indicated that one of the key features for preschool programming for children with autism was active engagement in intensive instructional programming 25 hours per week for the full year. The SCO finds that the NRC report formed the basis for the level of services *requested* by the Parents. However, the SCO notes that the NRC report also stated that the level of services can vary according to the individual needs of a child.

07/20/2009 IEP

48. A meeting was scheduled for 07/20/2009 at Parents' request. The participants in the meeting included Parents, Parent Advocate, Sped Director, Consultant, SLP, Preschool Teacher II, and Preschool Paraeducator. The SCO finds that the 07/20/2009 meeting was a properly convened IEP meeting which resulted in modifications to Child's IEP.
49. In the 07/20/2009 meeting, the IEP team –
- a. Discussed results of the evaluations conducted in May 2009;
 - b. Decided to leave Child's disability classification as autism;
 - c. Proposed reassessment of Child by the BOCES in the fall to determine whether autism was an appropriate classification;
 - d. With Parents, committed to ensuring Child's regular attendance at preschool; and

- e. Established goals that were more specific with regard to speech-language and social skills.
- 50. Although there were changes made to the 07/20/2009 IEP, the special education and related services documented in Child's IEP remained unchanged.
- 51. After the 07/20/2009 meeting, the SLP began providing ESY speech language services to Child. There is no dispute that the full six hours of ESY speech language services were provided to Child.

Summer 2009

- 52. During the summer of 2009, Parents also obtained speech language services for Child from the area Community Centered Board (CCB). The CCB speech language services were provided at Child's home for 35-45 minutes three times per week. The services were funded through a family support program through the CCB. The SCO finds that no costs were incurred to Parents for Child's summer services.
- 53. A letter from the CCB speech language provider (CCB SLP) dated 09/03/2009 indicated that Child made significant progress in the sessions provided over the summer of 2009. Specifically, the letter indicated that Child had progressed from using two to three word phrases and single words, to regularly using short sentences of four to six words. The letter also indicated that Child was initiating communications. However, the letter indicated that Child's speech and language skills were still significantly below age level.
- 54. On 08/28/2009, the Mother contacted the CDE Autism Consultant (CDE Consultant) regarding appropriate levels of speech language services. The CDE Consultant notified the Sped Director via email regarding Mother's contact that same day. According to the email, CDE Consultant explained to Mother that one hour of speech language services was typical for a preschool child with autism because interventions would continue to be provided throughout the twelve hours the child was in school.

2009-2010 School Year

- 55. On 09/01/2009, Parents requested a copy of the IEP that had been developed on 07/20/2009. The Sped Director responded that the 07/20/2009 meeting had not been an IEP meeting, but that a copy of the IEP with revisions would be provided. The revisions based on the 07/20/2009 meeting were documented in the Fourth IEP which was properly dated 07/20/2009. The Fourth IEP was received by Parents on 09/15/2009.
- 56. On 09/02/2009, Parents received a copy of the Consultant's 07/20/2009 meeting notes. Parents emailed the Sped Director on 09/04/2009 and indicated that Parents completely disagreed with the Consultant's meeting notes. According to the Complaint, Parents primarily disagreed with much of the background information such as Child's initial disability classification and assessment dates that were listed in the Consultant's meeting notes. In an interview with the SCO, the Consultant explained that he had used the IEP information provided by the BOCES for that background information. As previously stated in FF 36, Child's

IEPs had inaccurate information. The SCO finds that those inaccuracies were reflected in the Consultant's 07/20/2009 meeting notes.

57. On 09/04/2009, the Sped Director emailed Parents about conducting the additional assessments which were discussed at the 07/20/2009 meeting. In the email, the Sped Director indicated that additional assessments would be conducted by the BOCES, but also offered Parents an independent educational evaluation (IEE). In a 09/08/2009 email, Parents responded that they were interested in obtaining an IEE.
58. Child attended preschool from the beginning of the 2009-2010 school year on 08/26/2009 through 09/25/2009. During that period, Child was absent three out of the nineteen days preschool was in session. On 09/04/2009, Parents emailed the Sped Director that Child would be absent on 09/28/2009 and 09/29/2009. On 09/08/2009, Parents emailed the Sped Director that Child would be absent from 10/02/2009 through 10/11/2009. Child did not return to preschool after the planned absences.
59. In an interview with the SCO, Parents stated that although Child made some progress in the preschool in the spring, Child made the most progress over the summer. Parents believed that Child had regressed upon returning to preschool in the fall. Parents believed Child's behavior improved during the planned absences in late September and early October which is why Parents did not return Child to preschool. Parents did not notify the preschool or the BOCES of their decision to remove Child from preschool.
60. Parents obtained private OT and speech evaluations of Child from Area Medical Center on 10/01/2009. Relevant to this Complaint, the evaluation reports indicated –
 - a. Child had motor delays, speech and language delays, and a mild sensory processing disorder.
 - b. Child did not appear to have characteristics of an autism spectrum disorder.
 - c. Recommendations of consultation with preschool staff or BOCES program if needed and continued receipt of speech-language therapy, both in the [pre]school and through private services.
61. When asked by the SCO whether they would be willing to return Child to preschool, Parents stated that "it would require a lot of thought." Parents stated that the conditions at the preschool had improved and that they were satisfied with the preschool staff. However, Parents did not trust of the individuals involved in their IEP process over the past year.

ANALYSIS AND CONCLUSIONS OF LAW

Having carefully considered all information in the record, the SCO makes the following CONCLUSIONS OF LAW which are specifically limited to the facts of this case:

Issue 1: Whether the BOCES appropriately evaluated Child.

1. Under the IDEA, each child with a disability is entitled to a free appropriate public education (FAPE). A FAPE is tailored to the unique needs of the child by means of an IEP. *Hendrick Hudson Central Sch. Dist. V. Rowley*, 458 U.S. 176 (1982).
2. In reviewing whether a child has been provided with a FAPE, it must be first determined whether or not the IEP development process complied with IDEA procedures. Secondly, it must be determined whether the substance of the IEP provided a FAPE. *Rowley*. However, a procedural error in the IEP does not necessarily entitle a child to relief. Procedural errors amount to substantive failures only where the procedural inadequacy results in an effective denial of FAPE. *Sytsema v. Academy Sch. Dist 20*, 538 F.3d 1306 (10th Cir. 2008).
3. Questions of substantive compliance need not be addressed if the procedural inadequacies result in the loss of educational opportunity; seriously infringe on the parents' opportunity to participate in the IEP process, or cause a deprivation of educational benefits. *C.B. v. Hellgate Elementary Sch. Dist.*, 541 F.3d 1202 (9th Cir. 2008).
4. Without proper evaluative information, it is not possible for the IEP team to develop a program reasonably calculated to provide educational benefit. *C.B. v. Hellgate Elementary Sch. Dist.*, 541 F.3d 1202 (9th Cir. 2008).
5. The IDEA requires each public agency to conduct a full and *individual* initial evaluation, in accordance with 34 C.F.R. §§ 300.305-300.306 before the initial provision of special education and related services to a child. 34 C.F.R. § 300.301(a).
6. An evaluation means procedures used in accordance with 34 C.F.R. §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. 34 C.F.R. § 300.15.
7. In conducting the evaluation, the public agency –
 - a. Must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining –
 - i. Whether the child is a child with a disability under 34 C.F.R. § 300.8; and
 - ii. The content of the child's IEP including information related to enabling a preschool child to participate in appropriate activities. 34 C.F.R. § 300.304(b)(1)
 - b. Must not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. 34 C.F.R. § 300.304(b)(2)

- c. Must 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)(3).
 - d. Must ensure that assessments and other evaluation materials used are –
 - i. Used for the purposes for which the assessments are valid and reliable. 34 C.F.R. § 300.304(c)(1)(iii).
 - ii. Administered by trained and knowledgeable personnel. 34 C.F.R. § 300.304(c)(1)(iv).
 - iii. Administered in accordance with any instructions provided by the producer of the assessments. 34 C.F.R. § 300.304(c)(1)(v).
 - e. Must ensure that the child 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)
 - f. Must ensure that the evaluation is sufficiently comprehensive to identify all of the child’s special education and related services 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)
8. A public agency must ensure that a reevaluation of a child with a disability is conducted in accordance with 34 C.F.R. §§ 300.304 through 300.311 if –
- a. The public agency determines that the educational or related services needs, including improved academic and functional performance, of the child warrant a reevaluation; or
 - b. The child’s parent or teacher requests a reevaluation. 34 C.F.R. § 300.303(a)(1).
9. Each public agency must obtain informed parental consent, in accordance with 34 C.F.R. § 300.300(a)(1) prior to conducting any reevaluation of a child with a disability.
10. The SCO concludes that the BOCES failed to appropriately conduct an initial evaluation of Child. The initial evaluation was not individualized to Child (FF 4, FF 10) in violation of 34 C.F.R. § 300.301(a). A single assessment was used as the sole criterion for determining Child eligible for special education (FF 10) in violation of 34 C.F.R. § 300.304(b)(2). Child was not specifically assessed in suspected areas of disability – speech language and autism (FF 9-10, FF 13) in violation of 34 C.F.R. § 300.304(c)(4).
11. The SCO concludes that the subsequent evaluations conducted by the BOCES were administered by trained and knowledgeable personnel (FF 26-27) and used a variety of assessment tools and strategies (FF 25-28) in accordance with 34 C.F.R. §§ 300.304(b)(1) and 300.304(c)(1)(iv). However, the SCO concludes that the BOCES failed to obtain parental consent for the subsequent evaluations conducted in May 2009 (FF 30) in violation of 34 C.F.R. § 300.300(c)(1)(i).

12. The SCO concludes that the BOCES failed to obtain proper evaluation data in the initial evaluation which affected the ability to develop an IEP that would provide educational benefit for Child. Further, the failure to obtain parental consent for the subsequent evaluations infringed on Parents opportunity to participate in the IEP process. The SCO finds that these failures denied Child a FAPE.

Issue 2: Whether the BOCES inappropriately classified Child with the disability of Autism.

13. The IDEA requires that upon the completion of the administration of assessments and other evaluation measures –
 - a. A group of qualified professionals and the parent of the child determines whether the child is a child with a disability as defined in § 300.8 and the educational needs of the child. 34 C.F.R. § 300.306(a)(1).
 - b. The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. 34 C.F.R. § 300.306(a)(2).
14. The IDEA further requires that in interpreting evaluation data for the purpose of determining if a child is a child with a disability under 300.8 and the educational needs of the child, each public agency must –
 - a. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior. 34 C.F.R. § 300.306(c)(1)(ii).
 - b. Ensure that information obtained from all of these sources is documented and carefully considered. 34 C.F.R. § 300.306(c)(1)(i).
15. Under Colorado's Exceptional Children's Educational Act (ECEA), a child with a physical disability shall have a sustained illness or disabling physical condition which prevents the child from receiving reasonable educational benefit from regular education. Conditions such as, but not limited to, traumatic brain injury, autism, attention deficit disorder and cerebral palsy may qualify as a physical disability. ECEA Rule 2.08(1).
 - a. The Colorado Department of Education (CDE) allows school districts to make an *educational identification* of autism. A student's physical disability in the area of autism is documented by the following three criteria:³
 1. Qualitative impairment in social interactions; and
 2. Qualitative impairment in communication; and
 3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities.

³ CDE Autism webpage available at <http://www.cde.state.co.us/cdesped/SD-Autism.asp>.

- b. A student's physical disability in the area of autism may interfere with one or more of the following activities:
 - 1. Functional communication
 - 2. Social interactions and relationships
 - 3. Behavior
 - 4. Cognitive processing
 - 5. Motor skills
 - 6. Self help/daily living skills.
16. Classification of the precise impairment listed in the IDEA is not critical. Rather, the focus of the mandate is on the needs of the child and adequacy of services. *Pohorecki v. Anthony Wayne Local Sch. Dist.*, 637 F. Supp. 2d 547 (N.D. OH 2009).
17. The SCO concludes that the BOCES erred when it changed Child's disability classification to autism. The BOCES did not draw upon information from a variety of sources (FF 44) in violation of 34 C.F.R. § 300.306(c)(1)(i). Further, the criteria for an educational identification of autism were not documented (FF 44) in violation of 34 C.F.R. § 300.306(c)(ii).
18. The SCO also concludes that the BOCES failed to provide Parents with information needed to participate in the decision to change Child's disability classification to autism. Assessment results were not discussed with Parents before Child's disability classification was changed (FF 39). Further, Parents did not receive evaluation reports from the autism assessments (FF 41-42) in violation of 34 C.F.R. § 300.306(a)(2). The BOCES failure to provide Parents with needed information infringed on the ability of Parents to participate in the change in disability classification and denied Child a FAPE.

Issue 3: Whether the BOCES failed to appropriately develop an IEP with sufficient services necessary to provide Child with a FAPE.

19. The appropriate education required by the IDEA is not one which is guaranteed to maximize the child's potential. The substance of an IEP provides a FAPE if it provides the child with a basic floor of opportunity that consists of access to specialized instruction and related services which are *individually* (emphasis added) designed to provide educational benefit. *Rowley*. This educational benefit must be more than de minimis. *Urban by Urban v. Jefferson Co. Sch. Dist. 1*, 89 F.3d 720 (10th Cir. 1996).
20. The IDEA has several requirements for IEP development and IEP content. Relevant to this Complaint, an IEP means a written statement for each child with a disability that is developed, reviewed and revised in a meeting in accordance with 34 C.F.R. §§ 300.320 through 300.324. The IDEA requires –
- a. Each public agency to ensure that the IEP team for each child with a disability includes the parents of the child; 34 C.F.R § 300.321(a)(1).

- b. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or by amending the IEP in accordance with 34 C.F.R § 300.324(a)(4). 34 CFR § 300.324(a)(6).
 - c. In making changes to a child's IEP after the annual IEP team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. 34 C.F.R. § 300.324(a)(4).
 - d. An IEP must include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child to enable the child to –
 - i. advance appropriately towards attaining the annual IEP goals;
 - ii. be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
 - iii. be educated and participate with other children with disabilities and nondisabled children in the activities of this section. 34 C.F.R. § 300.324(a)(4)
21. The IDEA requires each public agency to ensure that extended school year (ESY) services are available as necessary to provide FAPE. ESY services must be provided *only if a child's IEP team determines, on an individual basis*, in accordance with §§ 300.320 – 300.324, that the services are necessary to provide FAPE to the child. 34 C.F.R. § 300.106(a)(2).
22. States have considerable flexibility in determining eligibility for ESY services and in establishing State standards for making ESY determinations. However, the State standards must be consistent with the *individually-oriented requirements* of the Act. See Analysis of Comments and Changes 2004 IDEA Part B regulations, 71 Fed. Reg. p. 46582, discussion of ESY services.
23. The SCO concludes that the BOCES failed to appropriately develop Child's IEPs. Although Mother participated in the development of the initial IEP (FF 15) in accordance with 34 C.F.R. § 300.321(a)(1), changes were made to Child's IEP outside of an IEP meeting (FF 24, FF 25, FF 37) in violation of 34 C.F.R. § 300.324(a)(6). Child's speech language services were not determined on an individualized basis (FF 19). Further, ESY services were not determined by the IEP team on an individualized basis and were not based on Child's needs (FF 32) in violation of 34 C.F.R. § 300.106(a)(2). The SCO finds that errors in developing Child's IEP denied Child a FAPE because the IEP was not individualized to the Child's needs.

REMEDY

- I. Because Child was denied a FAPE between 01/07/2009 and 01/07/2010, the SCO hereby orders:

- a. The BOCES shall provide independent educational evaluation (IEE) of the Child. The IEE must include –
 - i. Formal assessments in speech language specifically in the areas of pragmatic speech, receptive and expressive language, and language comprehension.
 - ii. Formal assessments to determine whether an educational identification of autism is appropriate for Child.
- b. Within 30 days of the receipt of the results for the IEE, the BOCES shall convene an IEP meeting with the Parents to –
 - i. Share the results of the IEE;
 - ii. Consider eligibility and disability classification;
 - iii. Develop new IEP goals as appropriate; and
 - iv. Discuss the level of services to be provided to the child.
- c. If the results of the IEE are negative or inconclusive for autism, the BOCES shall amend Child's educational records to remove all references to the autism disability classification.
- d. The BOCES shall provide Child with no less than 48 hours of compensatory preschool services and 4 hours of speech language services over the summer of 2010.

As Child is not currently enrolled in preschool, Parents have the choice of accepting or declining the ordered compensatory education. **Parents must notify, in writing, the BOCES Sped Director and the undersigned SCO no later than 5:00 PM on March 18, 2010 as to whether they accept or decline the ordered compensatory education. If Parents fail to so notify the BOCES and the SCO, the BOCES will be excused from providing the compensatory education.**

- II. The SCO hereby orders the BOCES to develop a Corrective Action Plan (CAP) to address –
 - a. Evaluation procedures for preschool children that ensures –
 - i. A full and individualized evaluation of each preschool child suspected of having a disability;
 - ii. Preschool children are evaluated –
 - A. Using a variety of assessment tools and strategies; and
 - B. In the area(s) of suspected disability;
 - iii. A single assessment is not used to determine a child's eligibility for special education or for changing a child's disability classification.
 - iv. Consent is obtained for all initial evaluations and for each subsequent evaluation.
 - v. BOCES Staff involved in preschool evaluations will be trained in and demonstrate understanding of the evaluation requirements.
 - vi. The evaluations of preschool children will be monitored by the BOCES to ensure compliance with evaluation requirements.
 - b. Educational autism identification, that ensures –

- i. Children suspected of autism are appropriately evaluated.
 - ii. The required criteria for educational identification of autism are documented.
 - iii. Staff involved in an educational identification of autism are trained in and demonstrate understanding of the criteria to be documented for autism identification.
 - iv. The BOCES will monitor documentation of the autism criteria for children classified with the disability of autism.
- c. IEP procedures for children that ensures –
- i. Changes are made to IEPs within IEP team meetings or through the IEP amendment process.
 - ii. Staff involved in IEP development are trained in and demonstrate understanding of the requirements necessary to change a child’s IEP.
 - iii. Special education and related services are determined on an individualized basis.
 - iv. ESY services –
 - A. Are individualized to the child; and
 - B. Determined annually by a child’s IEP team; and
 - C. Are consistent with the Colorado Department of Education ESY guidelines.
 - v. Changes made to IEPs will be monitored by the BOCES to ensure compliance with IEP requirements.

The BOCES shall provide the undersigned SCO with the CAP, no later than the end of business on 05/10/2010. The Department will review the BOCES proposed CAP. Following such review, the Department will either approve or request revisions of the proposed CAP. The enclosed sample templates provide suggested formats for the CAP and include sections for “improvement activities” and “evidence of implementation and change.”

Please submit the CAP and other required documentation above as follows:

Ms. Stephanie Lynch
 State Complaints Officer
 Exceptional Student Leadership Unit
 Colorado Department of Education
 1560 Broadway, Suite 1175
 Denver, Colorado 80202- 5149

FAILURE BY THE DISTRICT TO MEET ANY OF THE TIMELINES SET FORTH, ABOVE, WILL SUBJECT THE DISTRICT TO ENFORCEMENT ACTION BY THE DEPARTMENT.

The Decision of the SCO is final and not subject to appeal. If either party disagrees with this Decision, their remedy is to file a Due Process Complaint provided that the aggrieved party has the right to file a due process complaint on the issue with which the party disagrees. See, 34 C.F.R. § 300.507(a); Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 46607 (August 14, 2006).

CONCLUSION

This Decision shall become final as dated by the signature of the undersigned State Complaints Officer.

Dated this 8th day of March, 2010.

Stephanie D. Lynch, Esq.

Appendix A Record

Complaint

Attachment 1 (Att. 1)	List of questions from 07/20/2009 meeting
Att. 2	Timeline of events
Att. 3	Letter from Pediatrician
Att. 4	Letter from Speech Language Pathologist/Community Centered Board
Att. 5	07/20/2009 Meeting notes from Consultant
Att. 6	Email Communications 09/2009
Att. 7	Prior Notice and Consent for Initial Provision of Special Education and Related Services (1) & Prior Notice and Consent for Initial Provision of Special Education and Related Services (2) ⁴
Att. 8	Undated BOCES Evaluation Report
Att. 9	03/16/2009 IEP Evaluation Report (1) & 03/16/2009 IEP Evaluation Report(2)
Att. 10	02/09/2009 Draft IEP
Att. 11	02/09/2009 IEP (2)
Att. 12	02/09/2009 IEP (3)
Att. 13	07/20/2009 IEP
Att. 14	02/09/2009 IEP (4)
Att. 15	Email Communications 6/2009-09/2009

Parents' Reply

Att. 16	Undated BOCES Evaluation Report
Att. 17	05/13/2009 ESY Justification
Att. 18	09/01/2009 Email
Att. 19	Note to Parent re: 05/18/2009 ADOS assessment
Att. 20	03/16/2009 IEP Evaluation Report (1)
Att. 21	09/02/2009 Email
Att. 22	06/22/2009 Email
Att. 23	BOCES Response
Att. 24	Timeline of events
Att. 25	List of questions from 07/20/2009 meeting

Interview with Parents

02/09/2010

Parents Supplement to Record received 02/19/2010

Att. 26	10/01/2009 Private OT Evaluation report
Att. 27	10/01/2009 Private Speech Evaluation report
Att. 28	10/01/2009 Medical Center Pediatric Information Form

BOCES Response

Document 1(a)	Child Find Procedures
Doc. 1(b)	Procedural Safeguards Notice
Doc. 1(c)	02/03/2009 Prior Notice and Consent for Evaluation (Parents signature typed)
Doc. 1(d)	02/03/2009 Notice of Meeting
Doc. 1(e)	02/09/2009 IEP Participation Page
Doc. 1(f)	Pathways document
Doc. 1(g)	03/16/2009 IEP Evaluation Report (1)
Doc. 1(h)	02/09/2009 Autism Eligibility Determination form

⁴ Due to inaccurate dates on documents – documents with the same titles/dates and different information will be numbered.

Doc. 1(i)	Child's Hearing Screening, BOCES Evaluation Report, ADOS Summary report
Doc. 1(j)	Email communications 09/2009
Doc. 1(k)	BOCES Staff Licenses
Doc. 1(l)	02/09/2009 IEP Cover page
Doc. 2(a)	BOCES IEP Procedures
Doc. 2(b)	02/09/2009 IEP Cover page, 02/03/2009 Prior Notice & Consent for Evaluation, 02/03/2009 Notice of Meeting, 02/09/2009 IEP Participation page, 03/16/2009 IEP Evaluation report, 02/09/2009 Autism Eligibility Determination form
Doc. 3(a)	02/09/2009 IEP (5)
Doc. 3(b)	02/09/2009 IEP (6)
Doc. 3(c)	07/20/2009 IEP
Doc. 3(d)	Email Communications 06/2009-10/2009
Doc. 3(e)	Attendance Records
Doc. 3(f)	Attendance summary and BOCES withdrawal letter
Doc. 3(g)	Creative Curriculum progress reports 2008-2009, 2009-2010
Doc. 3(h)	Student notes, Teacher Notes, email communications 09/2009
Doc. 4	Copies of Doc.1 through Doc.3 in the order requested by SCO

Interviews 02/09/2009 BOCES Staff:

Special Education Director, School Psychologist, Occupational Therapist, Speech Language Pathologist, Consultant, Preschool Teacher (1) 2008-2009, Preschool Teacher (2) 2009-2010

BOCES Supplement to the Record received at 02/09/2009 Interviews

Doc. 5 Consultant vita

BOCES Supplement to the Record received 02/19/2009

Doc. 6 2008-2009 and 2009-2010 District school year calendar.

SCO supplement to the Record

Assessment Information CARS, CDI, Toni Linder play based assessment, Goldman Fristoe test of articulation & ADOS.
MCHAT Assessment
NRC Report