

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

**State-Level Complaint 2015:502
Harrison School District 2**

DECISION

INTRODUCTION

This is a pro-se, state-level complaint (Complaint), properly filed March 17, 2015. The Complainant is the mother (Mother) of Student, who is identified as a child with a disability under the IDEA.

Based on the written Complaint, dated March 9, 2015, the SCO identified two issues subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153. The SCO has jurisdiction to resolve the Complaint pursuant to these regulations.

MOTHER'S COMPLAINT ALLEGATIONS

Mother's Complaint raised two issues, summarized as follows:

1. Whether the District has denied Student a free appropriate public education (FAPE) since on or about May 20, 2014 by failing to consider the academic, developmental and functional needs of Student in the development of Student's Individualized Education Program (IEP)¹; and
2. Whether the District has violated Parents' procedural rights under the IDEA and ECEA since on or about May 20, 2014 by failing to provide Parents with Prior Written Notice, Notice of Meeting, or Procedural Safeguards Notice.

To resolve the Complaint, Mother proposed the following, in summary:

1. Student's disability category be changed or to provide Mother with Prior Written Notice of District's refusal to do so;
2. Development of a new IEP using valid and reliable technically sound instruments (not DIBELS);
3. Use of only evidence-based and peer researched instruments;
4. Provide appropriate goals and objectives to assist Student in accessing the general curriculum or provide Mother with Prior Written Notice of District's refusal to do so;

¹ The Complaint's issue relating to the denial of FAPE focused on whether Student's IEPs were developed based upon the Student's individual needs. However, in the course of the investigation, the SCO found that FAPE was additionally denied in the District's material failure to implement the May 20, 2014 IEP.

5. Include specific accommodations to address Student's ADHD or provide Mother with Prior Written Notice of District's refusal to do so;
6. Training be provided to District staff regarding the use of screening tools versus the use of valid and reliable, technically sound instruments when determining eligibility;
7. Training be provided to District staff regarding Prior Written Notice and Procedural Safeguard Notices when District approves and/or refuses a parent request; and
8. Compensatory services for at least one year.

FINDINGS OF FACT

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

1. At all times relevant to the Complaint, Student has lived with Parents and currently attends School, a charter school authorized by the District. Student was accepted to School on application.
2. Student has been identified as a student with a physical disability, eligible for special education and related services under the IDEA and ECEA.

A. May 20, 2014 IEP

3. On May 20, 2014, the IEP team met and developed Student's IEP. At the IEP meeting it was also agreed that Special Education Director and Parents would meet over the summer to discuss whether School could appropriately implement the services and supports consistent with Student's IEP and, if so, to determine a schedule for how services would be provided for the 2014-15 school year. It was also agreed that minor changes needed to be made to the IEP document itself, but that it reflected the decisions made by the IEP team.² Mother does not dispute that the May 20, 2014 IEP was appropriate.³
4. Parents did meet with Special Education Director and Former Special Education Coordinator shortly after the 2013-2014 school year ended and determined that Student would remain at School and that services would be monitored closely by the District. Sometime in July 2014 Parents, Special Education Director, Former Special Education Coordinator, and Principal met to discuss how services would be provided at School. They agreed that a schedule would be made before the beginning of the 2014-15 school year and would be provided to Mother. This never happened. A brief meeting was also to be scheduled at the beginning of the school year for a review and update of the IEP document to reflect the corrections that still needed to be made. The meeting was never scheduled

² Interviews with Mother and Principal; Exhibits B, C, 6 and 7

³ Interview with Mother

and the corrections were never made.⁴

B. October 27, 2014 meeting

5. On September 23rd Mother emailed Substitute Special Education Teacher (a long term substitute who was assigned to work with Student at the beginning of the 2014-15 school year) to request changes to the schedule of how services were actually being provided. Substitute Special Education Teacher responded that District Social Worker was overseeing School's special education programming and was concerned that School was not fulfilling Student's special education service minutes as provided in the IEP. Substitute Special Education Teacher also advised her that an IEP meeting would need to be scheduled in order to adjust service hours on Student's IEP. Mother agreed that an IEP meeting should be held and an IEP meeting was scheduled for October 27th. The District never provided Parents with a Notice of Meeting or Prior Written Notice⁵ for that date.⁶

6. On October 27th Mother, District Social Worker, Special Education Coordinator, Principal, Substitute Special Education Teacher, and Teacher met.⁷ Everyone at the meeting agreed that, for the purposes of delivering specific reading intervention provided for in Student's IEP, the number of service hours would be reduced to 300 minutes per week. They also agreed that the May 2014 IEP would be amended to reflect this change and that the corrections that had never been made to the May 2014 document would also be made and then provided to Mother by November 12th. They scheduled another IEP meeting for November 17th. There was also no Notice of Meeting provided to Parents for that date. The amendment and corrections were never made or provided to Mother and the meeting was cancelled at Mother's request.⁸

C. Implementation of Student's IEP

7. Mother complained that service hours had been missed and had not been appropriately provided. Mother also provided emails and a record of service hours missed. IEP team members admitted in interviews with the SCO that Student could not be supported at School with the number of service hours on the May 20, 2014 IEP due to the particular method of instruction and schedule of the School. IEP team members interviewed by the SCO admitted that service hours were reduced after the October 27th meeting until December 1st. No IEP team member could be certain how many hours Student was being provided or whether the May IEP was being followed at any given time during the 2014-15 school year. Despite multiple requests to obtain service logs or any information regarding services provided to Student, actual information was obtained from only two sources; from Special Education Teacher who confirmed providing the service hours provided for in the May 20,

⁴ Interviews with Mom, Special Education Director, Special Education Coordinator, and Principal; Exhibits 2 and 11.

⁵ District's policies indicate that parents are to be provided notice of meetings by "Prior Written Notice of Meeting". See Exhibit 3.

⁶ Interviews with Mom, Special Education Coordinator and Principal; Exhibits C, H and 11.

⁷ Principal's notes indicates that this was "pre-IEP meeting" and District and School team members referred to the meeting as an informal conference, yet the emails scheduling the meeting clearly refer to scheduling an IEP meeting.

⁸ Interviews with Mother, Social Worker, Special Education Coordinator, District Social Worker, and Principal; Exhibit C, H and 11.

2014 IEP from the beginning of January 2015 until the January 26, 2015 IEP was implemented; and from Speech Language Pathologist who confirmed providing services for Student from September 11th until December 5th. Accordingly, SCO concludes that the service hours in Student's IEP were not fully provided, however, it is not possible to determine how many hours were actually provided.⁹

8. SCO also concludes that Student's accommodation of assistive technology was not appropriately provided. Student was assigned a District laptop on August 28, 2014 as one of the accommodations in the May IEP. The laptop was the same one Student used the previous school year that had outdated software no longer supported by the manufacturer and was also not working properly. Student was to have the accommodations provided by the laptop on all writing assignments. At the October 27th meeting it was noted that Special Education Coordinator would check on issues with Student's assistive technology. On November 27th, the laptop was taken from Student in order to allow the District to fix the issues. On December 1st Special Education Coordinator informed Mother that Student's laptop computer would be returned to Student within one week, however, it was not returned to Student until January 7th. During this time, Student was still expected to complete classroom and homework writing assignments on time, but without the accommodation. When the laptop was returned to Student, there was no training provided to Student on the new and updated software. Moreover, Substitute Special Education Teacher and Special Education Teacher lacked training, knowledge, or experience to appropriately assist Student with the assistive technology.¹⁰

D. January 26, 2015 IEP meeting

9. On January 14, 2015, Mother requested an IEP meeting. Mother also requested that District provide a Notice of Meeting which included the purpose, date, time, location, and list of attendees. Mother indicated that she would like the IEP team to discuss accommodations, modifications, and services. An IEP meeting was scheduled for January 26th and a Notice of Meeting was provided to Mother. The Notice of Meeting stated that the purpose of the meeting was to "[r]eview and update Student's present levels of academic achievement and functional performance, needs, and goals, and to develop a plan to provide special education and related services." The Notice of Meeting also stated that the team was "[t]o review the draft IEP and hope to formulate and develop an IEP based on a team discussion of current data and information. Topics of discussion will include progress with Read program, and current progress related to speech and language services." Mother was also provided with a draft IEP.¹¹

10. At the meeting, the IEP team did not have sufficient data about Student's progress nor any current evaluative data to discuss. Ultimately, all of the information regarding Student's present levels contained in the January 26, 2015 IEP document was nearly identical to the May 20, 2014 IEP, with the exception of information Mother provided and scant information provided by District.

⁹ Interviews with Mother, Principal, Special Education Director, Special Education Teacher, Special Education Coordinator, District Psychologist, District Social Worker and Speech Language Pathologist; Exhibits C, M, 8 and 11.

¹⁰ Interviews with Special Education Director, Special Education Coordinator, Mother, Principal, and Special Education Teacher; Exhibits C and 11.

¹¹ Interview with Mother and Special Education Teacher; Exhibits B, C, L, 5, 10 and 11.

Members of the IEP team admitted in interviews with the SCO that they did not have a clear picture of what Student's educational needs were, such that it was impossible to develop an IEP.¹²

11. The IEP team discussed changing Student's disability category from "Physical" to "Other Health Impaired" with Special Education Coordinator insisting that Student's category be changed in order to align with those adopted by the CDE.¹³ Mother disagreed and the category was not changed. The team discussed goals, but Mother disagreed that the goals were not measurable and not based on present levels. The meeting was very contentious and it was agreed that they would continue the meeting on February 3rd.¹⁴

12. At the February 3rd meeting the IEP team discussed services hours, accommodations, goals, and the need for data and evaluations. At the end of the meeting, Mother indicated that she was unsure whether she was in agreement with the IEP until she reviewed the IEP document. Mother specifically asked how she should communicate her acceptance of the IEP. Special Education Coordinator stated that the IEP would not be finalized until Mother accepted it in writing. District provided a Prior Written Notice to Mother which was essentially a summary of the January 26th and February 3rd meetings and provided no notice of any action being taken. Mother never accepted the January 26, 2015 IEP in writing. The January 26, 2015 IEP was implemented and continues to be implemented. Also at the end of the February 3rd meeting, after much discussion about the need for evaluations and assessments to determine Student's needs, it was left to Mother to inform District whether or not she wanted the District to do evaluations and assessments. District never requested Mother's consent to perform evaluations.¹⁵

CONCLUSIONS OF LAW

1. Under the IDEA, local education agencies such as the District are required to provide eligible students with disabilities with a "free appropriate public education" (FAPE), by providing special education and related services individually tailored to meet the student's unique needs, and provided in conformity with an IEP developed according to Act's requirements. 20 U.S.C. § 1401(9); 34 C.F.R. § 300.17; ECEA Rule 2.19. The IDEA contains extensive procedural requirements relating to the development of the IEP, including requirements that the IEP be a written document, reviewed at least annually, that it be developed by a team of individuals with knowledge about the child, including the child's parents, and that it be based upon the input of the IEP meeting participants as well as evaluative data derived from valid, scientifically based assessments conducted in accordance

¹² Interviews with Mother, Special Education Teacher, SLP, Special Education Coordinator, Principal, District Psychologist, Special Education Director, and Speech Language Pathologist; Exhibits B, L, M, 6, 9, 10 and 11.

¹³ While the District is required to implement the necessary changes to align with the new disability categories, they do not have to be done until July 1, 2016 to do so. C.R.S. § 22-20-119

¹⁴ Interviews with Special Education Teacher, Principal, Special Education Director, Special Education Coordinator, District Psychologist, Speech Language Pathologist, and Mother; Exhibits 5, 10 and 11.

¹⁵ Interviews with Mother, Special Education Coordinator, District Psychologist, Special Education Teacher, Special Education Director, Principal, SLP; Exhibits M, 5 and 9.

with the Act's requirements. *See, e.g.*, 34 C.F.R. §§ 300.301-304; 300.320-324.

2. In the seminal case of *Board of Education v. Rowley*, the United States Supreme Court highlighted the importance of compliance with the IDEA's procedural requirements, particularly given the lack of specificity provided by the Act with respect to the substantive requirements of FAPE.

When the elaborate and highly specific procedural safeguards embodied in [20 U.S.C.] § 1415 are contrasted with the general and somewhat imprecise substantive admonitions contained in the Act, we think that the importance congress attached to these procedural safeguards cannot be gainsaid. It seems to us no exaggeration to say that Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process ... as it did upon the measurement of the resulting IEP against a substantive standard. We think that the congressional emphasis upon full participation of concerned parties throughout the development of the IEP ... demonstrates the legislative conviction that adequate compliance with the procedures prescribed would in most cases assure much if not all of what congress wished in the way of substantive content in an IEP.

Board of Education v. Rowley, 458 U.S. 176, 205 (1982).

3. Accordingly, *Rowley* developed the "two pronged" analysis for determining whether an IEP has offered FAPE. The first part of the analysis looks to whether the IEP development process complied with the IDEA's procedures; the second looks to whether the resulting IEP was reasonably calculated to confer some educational benefit upon the child. *Id. at 207; see also Thompson R2-J School Dist. V. Luke P.*, 540 F.3d 1143, 1148 (10th Cir. 2008). If those two questions are satisfied in the affirmative, then the IEP is appropriate under the law.

A. The District denied Student FAPE by failing to develop an IEP based upon the Student's individual needs and by failing to adequately provide Parents with Notices of Meetings and Prior Written Notices.

4. Evaluative data is the foundation upon which an IEP is based. Indeed, a district's failure to evaluate a student in all areas related to a student's suspected disability raises questions as to whether the student's IEP goals, special education services, and educational placement are

appropriate. The IDEA clearly specifies that each public agency must ensure that “[a]ssessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.” 34 C.F.R. § 300.304(c)(7). Absent medical evaluations and minimal assessments performed by the District in 2013, the IEP team had minimal information about Student in order to accurately determine Student’s strengths and needs, determine services, accommodations and modifications, or to formulate Student’s goals. Indeed, not a single District or School member of Student’s IEP team interviewed by the SCO believed that they had adequate information to appropriately develop an IEP for Student at the January 26, 2015 IEP meeting. Accordingly, it is impossible for SCO to conclude that the January 26, 2015 IEP was reasonably calculated to provide Student with FAPE.¹⁶

5. Under *Rowley*, where a school district violates the IDEA’s procedural requirements, the analysis includes whether that procedural violation denied the student FAPE. *Rowley, supra*. Here the SCO has already concluded that Student was denied FAPE. As such, there is no need to analyze the impact of District’s failure to provide Mother with Notices of Meetings or appropriate Prior Written Notices.

6. SCO notes that among the practices underlying the District’s failure to provide Student with FAPE are its erroneous assumptions that an IEP cannot be finalized or implemented until a parent “accepts” or consents to it and, further, that the decision to evaluate a student with a disability is one that a parent must initiate. Rather than requesting consent to perform the evaluations they all agreed were necessary to develop an appropriate IEP for Student, the District waited for Mother to tell them if she wanted Student evaluated; and rather than giving Parents appropriate notice that the January 26, 2015 IEP was being implemented, they told Mother they would wait for her to tell them whether it would be implemented.¹⁷ By passing the responsibility of these decisions on to the Mother, the District shirked its obligations under the law. The obligation to provide FAPE is a school district’s obligation, not a parent’s obligation. Further, except for the initial provision of special education and related services, parental consent is not required for a school district to implement an IEP. Indeed, the IDEA is explicit in requiring that a school district develop an IEP based upon each child’s individual needs, and that it make a formal, written offer of a specific placement. *Systema, supra*, 538 F.3d at 1315-16, *citing with approval, Union School Dist. v. Smith*, 15 F.3d 1519 (9th Cir. 1994)(formal, written offer of placement must be included in the IEP); *see also, Knable v. Bexley City Sch. Dist.*, 238 F.3d 755 (6th Cir. 2001); *J.K. v. Alexandria City Sch. Bd.*, 484 F.3d 672 (4th Cir. 2007)(school district violated IDEA by offering an IEP that did not specify a placement for the

¹⁶ It is also questionable whether the District had adequate information on May 20, 2014 to develop Student’s IEP, however, there was a lack of access to members of the IEP team present at the May 20, 2014 IEP meeting to determine what was considered. Moreover, it was clearly indicated by the documentation and by speaking with Mother and Principal that there was no disagreement with the May 20, 2014 IEP, other than the corrections and remaining issues which have already been discussed.

¹⁷ As discussed herein, the District provided a Prior Written Notice to Mother that stated action actually being taken.

student). Similarly, where, as here, a school district has determined that it cannot develop an appropriate IEP because it lacks current progress or evaluation data relating to the child's present levels of performance and academic needs, it must attempt to reevaluate the child. 34 C.F.R. § 300.303(a)(1). A school district cannot evade its obligation to reevaluate a child by leaving the decision to the parents.

B. Since the beginning of the 2014-15 school year, the District has denied Student FAPE by failing to implement and comply with Student's May 20, 2014 IEP.

7. The SCO next addresses issues of implementation and compliance with Student's May 20, 2014 IEP. Under the IDEA, local education agencies such as the District are required to provide eligible students with disabilities with FAPE by providing special education and related services individually tailored to meet the student's unique needs and provided in conformity with an IEP developed according to the Act's requirements. 20 U.S.C. § 1401(9); 34 C.F.R. §300.17; ECEA Rule 2.19. Where the definition of FAPE specifically references the provision of special education and related services consistent with an IEP, a material failure to implement an IEP can result in a denial of FAPE. *Id.*; see also *K.C. v. Utah State Bd. of Educ. et al.*, 43 IDELR 29 (10th Cir. 2005); *Van Duyn v. Baker Sch. Dist.* 5J, 481 F.3d 770 (9th Cir 2007), *Neosho R-V Sch. Dist. v. Clark*, 315 F.3d 1022 (8th Cir. 2003).

8. Here, it is clear that the May 20, 2014 IEP was the only IEP that was agreed upon. Nonetheless, this SCO concludes that the District has at times provided services based on the October 27th plan and has also implemented the program laid out in the January 26, 2015 IEP document. SCO also concludes that, although it is impossible to determine how many hours were actually provided, the service hours in Student's IEP were not fully provided. It is also clear that Student's accommodations have not been consistently or appropriately provided from the beginning of the 2014-15 school year and, moreover, that Student and service providers responsible for assisting Student, have not been provided with appropriate training with regard to the assistive technology. Accordingly, the District failed to appropriately implement and comply with Student's May 20, 2014 IEP throughout the entire 2014-15 school year, thereby denying Student FAPE.

REMEDIES

The SCO has concluded that the District committed the following violations of the IDEA:

- 1) Failure to develop, review or revise an IEP according to the unique needs of a child with a disability in accordance with 34 C.F.R. §§ 300.320 and 300.324;
- 2) Failure to develop an IEP in accordance with the procedural requirements of the IDEA, including

- a) providing sufficient prior written notice in accordance with 34 C.F.R. § 300.503(b);
 - b) providing Parents with an amended IEP in accordance with 34 C.F.R. § 300.324(a);
 - c) providing Parents with the opportunity to participate in an IEP meeting in accordance with 34 C.F.R. § 300.322; and
 - d) conducting a reevaluation in accordance with 34 C.F.R. § 300.303.
- 3) Failure to provide Student with the special education and related services in conformity with the May 20, 2014 IEP, resulting in a denial of FAPE, in violation of 34 C.F.R. § 300.17(d).

To remedy these violations, the District is ordered to take the following actions:

- 1) By June 9, 2015, the District must submit to the Department a proposed corrective action plan (CAP) that addresses each and every violation noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom the District is responsible. The CAP must, at a minimum, provide for the following:
 - a) Submission of compliant, written policies and procedures and, as applicable, compliant forms that address each of the cited violations, no later than July 15, 2015.
 - b) Effective training provided by trainers from outside the District must be conducted for all Special Education Directors and intended designees (which may include case managers, special education teachers, building administrators, district administrators, disability specific service providers, and general education teachers) concerning these policies and procedures, to be provided no later than August 24, 2015.
 - c) Evidence that such trainings have occurred must be documented (i.e. training schedule(s), agenda(s), curriculum/training materials, and legible attendee sign-in sheets) and provided to CDE no later than September 8, 2015.
- 2) Conduct a full evaluation of Student in all identified and suspected areas of disability as soon as possible, but no later than 30 days after this Decision. The evaluation must include a SWAAC assessment, evaluations completed by a literacy specialist, a neuropsychological evaluation, and speech and language assessments. The evaluations must be consistent with the IDEA and this Decision. Parents will provide consent for the evaluation within 5 days of receiving the request to evaluate. If Parent refuses to provide consent within 5 days of receiving the request, the District will be excused from conducting the evaluation.

The District shall provide the Department with documentation that it has complied with these requirements no later than July 15, 2015. Documentation must include the signed consent for evaluation, documentation showing that all of the evaluations were provided to Parents, and a copy of the evaluation results.

3) Conduct an eligibility meeting no more than 14 days after all evaluations have been completed. The eligibility meeting and the resulting eligibility determination must be consistent with the IDEA and the ECEA and this Decision.

The District shall provide the Department with documentation that it has complied with these requirements no later than July 15, 2015. Documentation must include proof of compliance with the procedural requirements set forth in the IDEA, including notice of meeting and prior written notice.

4) Conduct a full IEP meeting immediately after determining eligibility. The IEP team meeting and the resulting IEP must be consistent with the IDEA and this Decision. The IEP team must include a literacy specialist who has demonstrated experience with complex literacy needs. The IEP team must specifically address Student's present levels and address any deficiencies that are found as a result of the evaluations and assessments performed. The IEP team must create a plan for addressing any deficiencies that is consistent with the recommendations of the evaluators or an explanation of why the IEP team has decided to deviate from the recommendations.

The District shall provide the Department with documentation that it has complied with these requirements no later than July 15, 2015. Documentation must include proof of compliance with the procedural requirements set forth in the IDEA, including notice of meeting and prior written notice, as well as a copy of the resulting IEP document.

5) To ensure appropriate implementation of Student's IEP:

a) Special Education Director will monitor implementation of Student's IEP and send copies of relevant documentation and a report, to include progress monitoring and service logs, to the Department by the second Monday of each month beginning on September 14, 2015 until May 15, 2016; and

b) A copy of all progress reports sent to Parents must be sent to the Department within 7 days of when Parents are sent or provided such reports.

6) Compensatory Education Services for Failure to Provide Student with FAPE.

a) As previously discussed, the District shall provide Student with services in Student's IEP to specifically address any deficits found by the evaluators.

b) The District also shall ensure that the special education teacher providing the services confers with a general education teacher and a literacy specialist for grade-level content on a monthly basis to monitor Student's progress and adjust instruction accordingly. The District must submit documentation that these conferences have occurred by the second Monday of each month until May 15, 2016.

c) In addition, the District shall consult with an out-of district literacy specialist who has extensive experience teaching students with complex literacy needs to review instructional

strategies and Student's progress. This consultation must occur within the first week of compensatory services, and once every three months until May 15, 2016. Upon request, CDE is able to provide the District with a list of qualified consultants. The District must submit documentation to CDE that these consultations have occurred.

d) Finally, the District shall consult with an out-of-district assistive technology specialist within the first week of compensatory services, and once again approximately three months after the initial consult to ensure that Student's assistive technology needs are being met. The District must submit documentation to CDE that these consultations have occurred.

These compensatory services shall be in addition to any services Student currently receives, or will receive, that are designed to advance Student toward IEP goals and objectives, including ESY. The Parties shall cooperate in determining how the compensatory education services will be provided, with special consideration to Student's needs, stamina, and family schedule. The consultations required with out-of-district providers shall be at the District's expense. The District shall provide the Department with documentation that it has complied with this requirement no later than May 15, 2016.

e) The District shall provide the Department with documentation that it has complied with this requirement no later than May 15, 2016. Documentation must include the service logs for providing compensatory services, documentation that special education teacher(s) has conferred with general education teacher(s) and outside consultants, and the contracts for consulting with out-of-district literacy specialist and assistive technology specialist. To document the provision of these services, the District must submit records of service logs to CDE by the second Monday of each month until May 15, 2016.

The Department will approve or request revisions of the CAP. Subsequent to approval of the CAP, the Department will arrange to conduct verification activities to verify the District's timely compliance with this Decision.

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

Colorado Department of Education
Exceptional Student Services Unit
Attn: Joyce Thiessen-Barrett
1560 Broadway, Suite 1175
Denver, CO 80202-5149

NOTE: Failure by the District to meet the timeline set forth above will adversely affect the District's annual determination under the IDEA and subject the District to enforcement action by the Department.

CONCLUSION

The Decision of the SCO is final and 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 CFR § 300.507(a) and Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 156, 46607 (August 14, 2006).

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

This 15th day of May, 2015.

Lisa A. Weiss, Esq.
State Complaints Officer

APPENDIX

Complaint, dated March 9, 2015, pages 1-20

- Exhibit A: Notices of Meetings on December 1 and 15, 2014
- Exhibit B: Draft January 26, 2015 IEP; May 20, 2014 IEP with handwritten notes; Draft December 1, 2014 IEP
- Exhibit C: Email correspondence
- Exhibit D: Miscellaneous documentation

“Parent Reply”, dated April 13 2015, pages 1-26

- Exhibit E: Email correspondence; Medical documentation
- Exhibit F: Colorado Talking Book Library application
- Exhibit G: Documentation related to Student’s academic progress
- Exhibit H: Emails and handwritten notes referring to October 27, 2014 meeting
- Exhibit I: Student schedule with handwritten notes; Document referring to missed services
- Exhibit J: District and CDE policy and guidance documents
- Exhibit K: Miscellaneous documentation
- Exhibit L: Email and Draft Parent Input January 26, 2015 IEP document
- Exhibit M: Audiorecording of January 26 and February 3, 2015 IEP meetings

“Reply” (District’s Response), dated April 8, 2015, pages 1-6

- Exhibit 1: Copy of Complaint and supporting documentation
- Exhibit 2: Correspondence
- Exhibit 3: District policies and processes
- Exhibit 4: List of District staff members with knowledge
- Exhibit 5: Meeting Agenda; Sections 4-5 of May 20, 2014 IEP; Prior Written Notice dated May 20, 2014; Page 2 of IEP meetings on January 26 and February 3, 2015; February 3, 2014 waiver; Notice of Meeting on May 20, 2014; Prior Notice of Special Education Action dated January 26, 2015; Notices of Meetings on December 1 and 15, 2014, January 26 and February 3, 2015; Notices of Meetings and Prior Written Notices prior to May 20, 2014
- Exhibit 6: 2013 Evaluation Reports; May 20, 2014 IEP; Draft May 20, 2014 IEP; Sections 4-5 of November 11, 2013 IEP meeting.
- Exhibit 7: May 20, 2014 IEP team member excusal form; May 20, 2014 IEP; Draft May 20, 2014 with handwritten notes; IEP meeting documentation prior to May 20, 2014
- Exhibit 8: May 2014 present levels from Former Special Education Teacher; November 24, 2014 email; Notice of Meeting on December 1, 2014; Draft December 1, 2014 IEP

Documentation provided upon specific request by SCO

- Exhibit 9: January 26, 2015 IEP
- Exhibit 10: Draft January 26, 2015 IEP with handwritten notes; progress monitoring documentation and Student work samples; Special Education Teacher calendar entries
- Exhibit 11: Principal’s July 29, 2014, October 27, 2014, December 1, 2014, and January 26, 2014 handwritten meeting notes; February 3, 2014 IEP meeting agenda with handwritten notes; September 23 and 24, 2014 emails with handwritten notes

Interviews with:

Mother

Principal

Special Education Director

Special Education Coordinator

District Psychologist

District Social Worker Special

Education Teacher Speech

Language Pathologist