

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

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**State-Level Complaint 2019:525  
Adams 12 Five Star Schools**

**DECISION**

**INTRODUCTION**

This state-level complaint (Complaint) was filed on April 17, 2019, by the parents of a child identified as a child with a disability under the Individuals with Disabilities Education Act (IDEA).

Based on the written Complaint, the SCO determined that the Complaint identified allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153. The SCO has jurisdiction to resolve the Complaint pursuant to these regulations.

**RELEVANT TIME PERIOD**

Pursuant to 34 C.F.R. § 300.153(c), CDE has the authority to investigate allegations of violations that occurred not more than one year from the date the original complaint was filed. Accordingly, this investigation will be limited to the period of time from April 17, 2018, through April 17, 2019, for the purpose of determining if a violation of IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations. Findings of noncompliance, if any, shall be limited to one year prior to the date of the complaint.

**SUMMARY OF COMPLAINT ALLEGATIONS**

Whether the District violated the IDEA and denied Student a free appropriate public education (FAPE) by:

1. Failing to accurately specify the type and frequency, location, and duration of services in Student's IEP in February 2019, specifically paraprofessional support, consistent with 34 C.F.R. § 300.320(a)(4),(7);
2. Impeding Parents' opportunity to meaningfully participate in the development of Student's IEP by failing to incorporate the specificity requested by Parent concerning

paraprofessional support in the February 2019 IEP, consistent with 34 C.F.R. § 300.324(a)(1)(ii).

### **FINDINGS OF FACT**

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

1. Student is a seven-year-old currently eligible for special education and related services under the disability category of Autism Spectrum Disorder (ASD). Student recently finished second grade at School which is located within the District. *Exhibit 2*, p. 1.
2. Student is described as an enthusiastic, sweet, and affectionate person, who is well liked by his peers and is caring towards his classmates and teachers. *Exhibit 2*, p. 3; *Interviews with Classroom Teacher and Parent*.
3. As a result of his disability, Student has difficulty reading and understanding social situations. Student often “misinterprets situations when peers give him feedback, positive or negative. This results in emotional reactions that include crying, pouting, negative statements about himself, getting upset easily, and other signs of anxiety.” *Exhibit 2*, p. 11.
4. In October 2018, Classroom Teacher and School Psychologist both observed Student making negative comments about himself. These comments typically occurred if another student was called on, if another student received praise or attention from Classroom Teacher, or if Student believed a classmate had said something negative towards him. *Exhibit B*, p. 29; *Interviews with School Psychologist and Classroom Teacher*. In these instances Student would make comments such as: “I am a loser” or “Nobody likes [Student].” *Exhibit B*, p. 29.
5. As explained more fully below, in response to these behaviors, the District conducted a Functional Behavioral Assessment (FBA) and developed a Behavior Intervention Plan (BIP). Parent contends that paraprofessional support is necessary to implement Student’s BIP. Though the District disagrees that this level of support is necessary to implement Student’s BIP, it provided consistent paraprofessional support to Student’s classroom from December 2018 to May 2019. However, the District has refused to include a statement in Student’s IEP, requested by Parent, stating that Student requires paraprofessional support. Parent’s contention is that since Student is receiving the extra support, it should be documented in his IEP. *Reply*, p. 1. This disagreement is the basis of this Complaint.

## **Functional Behavioral Assessment and Development of Behavior Intervention Plan**

6. School Psychologist and Classroom Teacher discussed Student's negative self-talk with Parent during parent-teacher conferences in mid-October 2018. *Interviews with Parent, School Psychologist, Classroom Teacher.* Following the meeting, at Parent's behest, School Psychologist collaborated with Student's Private Therapist to create a chart to track these behaviors and to discuss Student's history. Based on the frequency of the behaviors shown in the behavior charts, the decision was made to conduct a FBA. *Interview with School Psychologist.*
7. The following email from Elementary Coordinator to Parent on November 29, 2018 illustrates the collaboration between the family and the District during this period:

Hi [Parent],

After touching base with [School Psychologist], I realized that I had not remembered that she was still collecting data for the FBA. I also had the opportunity to talk with [Principal] this afternoon and he shared that he had the opportunity to meet with you yesterday and discuss the need to keep things consistent while collecting data for the FBA.

Here is what has happened since our meeting on November 13<sup>th</sup>.

- 11/14 [Private Therapist's] observation and meeting
- 11/15 District specialist observation
- [School Psychologist] discussed [Private Therapist's] suggestions with [Classroom Teacher]. [School Psychologist] suggested that [Classroom Teacher] use the information from [Private Therapist] to identify the physical signs that [Student] is feeling anxious
- 11/28 end of data collection for FBA
- 11/28 [School Psychologist] met with district specialist
- Upcoming-
- 12/4 District behavior specialist to observe [Student] and meet with [School Psychologist]
- [School Psychologist] to interview [Parent] for FBA
- 12/7 FBA/Behavior Intervention plan meeting

[School Psychologist] and I will be in touch again tomorrow to plan for the implementation of interventions that can occur before the behavior plan meeting. I would be happy to send a weekly email summarizing the steps that have been taken over the week if that would be helpful. *Exhibit I, p. 56.*

8. The SCO finds, based on extensive email communications from October 2018 to March 2019 provided in the record, that the above email is consistent with and illustrative of the District's efforts to communicate and collaborate with Parent.
9. School Psychologist conducted an FBA in November 2018. The FBA was based on the following information: 10 days of ABC (Antecedent, Behavior, Consequence) data collection, interviews with Parent, Classroom Teacher and Student, a file review, classroom observations, and consultations with Student's Private Therapist and the District's Behavioral Specialist. *Exhibit B*, p. 31.
10. Based on the information collected in the FBA, Student's behaviors were divided into 2 categories: Level 1 and Level 2. Level 1 statements occurred when Student made a single negative statement about himself in a calm tone. Level 2 behaviors represented an escalation, where Student would make several negative statements in a loud voice, accompanied by screaming, crying, and/or throwing himself on the ground. *Exhibit B*, p. 29.
11. Based on the data collected and findings of the FBA, Student's team then developed a BIP to address his negative self-talk. The BIP contains a multitude of strategies aimed at preventing the negative behaviors from occurring. Some of these strategies would necessarily require additional support to assist Classroom Teacher, such as "Take [Student] on a walk for a couple minutes and talk about strategies to use when he gets back and talk about what will be happening in the classroom when he gets back." However, other strategies Classroom Teacher could implement without additional assistance, such as: "Praise [Student] verbally or give a thumbs up when another student is complimented or called on and [Student] remains silent." *Exhibit 1*, pp. 1-4.
12. Email communication provided by the District shows extensive collaboration between School Psychologist and Private Therapist during the development of the BIP. *Exhibit E*, pp. 14-19.
13. On December 2, 2018, Parent emailed School Psychologist, expressing her concern that the draft BIP's plan to address Level 1 behaviors was to ignore the behaviors. Pertinent to this decision, School Psychologist replied in part the next day: "I looked back at my notes from when [Private Therapist] came to observe and consult with us and she recommended ignoring these level 1 behaviors as well. [Private Therapist], [Elementary Coordinator] and I all agreed that level 1 behaviors are attention seeking behaviors, and by addressing the behavior (talking to [Student] and giving him attention) in these moments, we are teaching [Student] that he will get attention by making negative self talk statements rather than through appropriate replacement behaviors." *Exhibit I*, p. 64.

14. In order to monitor the BIP and evaluate whether it was effective, daily data tracking forms were used. *Exhibit 1*, p. 8. Parent provided a tracking form that Private Therapist had developed, however the team determined that form to be too cumbersome. The team did incorporate certain elements of Parent's form into the final version used. *Interview with School Psychologist*. For instance, following the January 9<sup>th</sup> meeting discussed below, based on Private Therapist's suggestions, the team added a section in the data tracking form "to include the triggers that cause [Student's] negative statements." *Exhibit 1*, p. 100. Classroom Teacher emailed the completed data tracking forms every night to Parent. *Interview with Classroom Teacher*.
15. In December 2018, Paraprofessional 1 began working in Classroom Teacher's classroom in the morning. According to School Psychologist, Paraprofessional 1's primary function was to collect data related to Student's negative behaviors, and to provide support to other students in the classroom. *Interview with School Psychologist*. Paraprofessional 1 has an in-depth knowledge of Student's needs and is familiar with the signs Student displays leading up to Level 2 behaviors. Paraprofessional 1 explained that she follows Student's BIP when Student becomes dysregulated, and that School Psychologist explained the BIP and how to implement its strategies. Paraprofessional 1 also collects data on Student's behaviors everyday using the tracking sheet referenced above. Paraprofessional 1 explained that she speaks with School Psychologist typically two or three times a week to discuss how Student is responding to the BIP, and whether adjustments need to be made. Paraprofessional 1 noted a marked decrease in Student's negative self-talk behavior throughout the semester. *Interview with Paraprofessional 1*.

#### **January 9, 2019 meeting to discuss BIP**

16. On January 9, 2019, Student's IEP team met at Parent's request to discuss feedback on the draft BIP. *Exhibit G*, p. 4. According to a Prior Written Notice (PWN) issued the same day, the discussion at the meeting centered primarily around six topics brought by Parent: (1) collaboration with Private Therapist, (2) the assignment of a 1:1 paraprofessional for Student, (3) extended school year services for Student, (4) regular communication between District and Parent, (5) consideration of feedback on the BIP, and (6) involvement by a District autism specialist. *Exhibit F*, p. 3.
17. The IEP team agreed with Parent on five of her six concerns, specifically: continued collaboration with Private Therapist, collecting data on extended school year services, conducting twice monthly data review meetings, continuing feedback on the draft BIP, to include additional data collection and consideration of outside therapist's input, and in response to Parent's request that a District ASD specialist be involved in Student's support team, the District included a Behavior Specialist with 15 years of experience working with students with ASD. *Exhibit F*, p. 3.

18. The only issue the District did not agree with was Parent's request to assign a 1:1 paraprofessional to help implement Student's BIP. The decision is memorialized in a PWN issued the same day: "Parents would like to assign a 1:1 paraprofessional for [Student]. The school IEP team does not agree that [Student] needs a 1:1 para, however the district has allocated a classroom para to the classroom to assist the teacher with meeting the social emotional needs of all students. This has been approved through the 25<sup>th</sup> of January and will be considered after each data review." *Exhibit F*, p. 3. Under the "other options considered and rejected" section of the PWN, it states: "The IEP team considered the parent's request for a 1:1 paraprofessional, but was refused due to the lack of data supporting this level of support. The team considered all of the feedback provided by the family and outside therapist. Although most of the feedback was incorporated into the BIP, the team agreed to compromise on a tiered response plan, including ignoring the misbehavior, then responding if the behavior continues." *Exhibit F*, p. 4.
19. Asked about this meeting, Parent explained to the SCO that changes were made to Student's BIP based on conversations between herself and School Psychologist. *Interview with Parent*.
20. The SCO also discussed this meeting with Elementary Coordinator. Elementary Coordinator works in an administrative position within the District, and supports various elementary school teams. She also serves as a designee to assign District resources. Elementary Coordinator recalled receiving a long list of disagreements from Student's Private Therapist regarding the BIP. According to Elementary Coordinator, these concerns were discussed and adjustments to the BIP were made. Elementary Coordinator also stated that the team reviewed the data that had been collected, and each member responsible for implementing the BIP believed that paraprofessional support was not necessary. *Interview with Elementary Coordinator*. The SCO finds that this explanation is consistent with the explanation provided in the PWN issued on January 9, 2019.
21. Special Education Director was also present at the January 9, 2019 meeting, and her recollection is largely the same as Elementary Coordinator. Special Education Director told the SCO that the purpose of the meeting was to review Student's BIP. The team agreed to meet every other week with Parent to discuss the data collected, and also agreed to start collecting data on how often the paraprofessionals were working with Student. The team reviewed a data sheet provided by Parent, and considered it but declined to use it in its entirety. *Interview with Special Education Coordinator*. This account of the meeting is consistent with an email sent by Principal to Parent recounting the meeting and providing PWN on January 11, 2019. *Exhibit I*, p. 100. Special Education Coordinator also recalled both Classroom Teacher and School Psychologist stating that they believed they could implement the BIP without paraprofessional support.

22. The SCO also spoke with School Psychologist and Classroom Teacher regarding the ability to implement the BIP without paraprofessional support. Both agreed paraprofessional support is not necessary, explaining that School Psychologist's office is directly across the hallway from Classroom Teacher's room, allowing her to respond very quickly if necessary. Significantly, Classroom Teacher has taught at School for the past 29 years. She explained to the SCO that the Special Education team at School, as well as the general education staff are extremely responsive, and that she has had to call for additional adult support for students in the past, and has always received prompt assistance. *Interviews with School Psychologist and Classroom Teacher.*
23. Based on the above, the SCO finds that Student's IEP team did not agree that a dedicated 1:1 paraprofessional was necessary to implement his BIP, or agree to place that level of support in Student's IEP.
24. Following the January 9<sup>th</sup> meeting, Data Review Meetings (DRM) were held every 2 weeks. These meetings are attended by Parent, School Psychologist, District Behavioral Specialist, and Elementary Coordinator. Private Therapist has also attended at least one DRM. At these meetings, School Psychologist presents the data collected by the paraprofessionals. The group considers the data and looks at different patterns and trends in order to determine whether adjustments are necessary to the BIP. Parent is an active participant in these meetings, and her concerns and suggestions are often reflected in changes in strategy to the BIP. The ongoing paraprofessional support is discussed at each of these meetings. In April the team agreed to reduce the frequency of these meetings to once a month, at Parent's request. *Interviews with Parent, School Psychologist, and Elementary Coordinator.*
25. Also following this meeting, Paraprofessional 2 started in Classroom Teacher's classroom in the afternoon. Paraprofessional 2 described her role to the SCO as recording data on Student's behaviors, and also supporting other students in the classroom. Paraprofessional 2 is extremely familiar with Student's BIP, having been trained on it by School Psychologist. Paraprofessional 2 stated that she initially assisted Student approximately 30 minutes a day, and that time steadily decreased throughout the spring semester. She also explained that Student became progressively more adept at recognizing when he was becoming upset, and letting either herself or Classroom Teacher know that he needed a break. *Interview with Paraprofessional 2.*

### **February 6, 2019 IEP Team Meeting**

26. On February 6, 2019, the District convened a properly constituted IEP team to update Student's IEP. In attendance were: Parents, Special Education Director, Classroom Teacher, Special Education Teacher, Elementary Coordinator, Physical Therapist, Behavior Specialist, School Psychologist, Parent's advocate, Occupational Therapist, Physical Therapist. *Exhibit 2, p. 2.*

27. The primary topics discussed in this meeting were updating Student's goals to account for his BIP, and Parent's concerns regarding paraprofessional support. *Exhibit G*, p. 5.
28. The PWN issued the same day reflects that Student's BIP was updated: "[Student's social/emotional needs necessitate updates to his current Behavior Intervention Plan with strategies that have shown to assist [Student] in the classroom." *Exhibit 2*, p. 24.
29. The PWN also captures the discussion surrounding how paraprofessional support is listed on the IEP: "Second, para-educator support was requested by [Student's] parents to be part of the services section of the IEP. It is listed in the accommodations section of the IEP as, 'If [Student] is disregulated [sic] and the teacher requests additional adult support, additional adult support will be provided to meet his social/emotional needs and support the Behavior Intervention Plan.'" *Exhibit 2*, p. 24.
30. Based on email communications following this meeting between Advocate, Parent and Elementary Coordinator, two goals specifically addressing Student's social emotional wellbeing were added to Student's IEP. On February 14, 2019, Advocate emailed Student's IEP team with requested revisions to Student's IEP. Those revisions included 4 social emotional goals Parent wished to incorporate, as well as a written statement of parental input that was not originally included with the IEP. *Exhibit 6*, p. 2.
31. On February 25, 2019, Elementary Coordinator replied, stating "Looking at the 4 social emotional goals, it seems that they are very similar. In fact, it would appear that success with either set of goals would lead to success with the other 2 goals. Based on this, we would propose that the family select the two goals they would prefer. This will allow us to focus on the 'teaching' of skills rather than [sic] progress monitoring goals that are somewhat repetitive. We are happy to host another conversation to discuss this further if necessary." *Exhibit 6*, p.1. Parent confirmed to the SCO that the two goals added to Student's IEP were those chosen by Parent. *Interview with Parent*.
32. The second attachment in Advocate's February 14<sup>th</sup> email was a narrative document listing parental input that was not included in the original IEP. This narrative was included via amendment. Significant to this decision, Parents also requested the following statement be added to the service delivery statement of Student's IEP: "[Student] receives paraprofessional support in the classroom to monitor, prompt, and guide his attention to task and social/emotional regulation. This support will be faded as [Student] demonstrates increased independence in his attention to academic tasks and social/emotional skill development." *Exhibit 4*, p. 4.
33. On February 25, 2019, Elementary Coordinator replied, stating in part: "Additional adult support is addressed with the following statement – 'If [Student] is disregulated [sic] and teacher requests additional adult support, additional adult support will be provided to meet his social/emotional needs and support the Behavior Intervention Plan.'" *Exhibit 4*, p. 4.



*Exhibit 6*, p. 1. This is the statement in the accommodations section of Student's February 6, 2019 IEP.

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation One:** The IEP accurately described the special education and related services agreed to by the IEP team on January 9, 2019 and February 6, 2019.

Parent alleges that the District failed to accurately describe the special education and related services on Student's IEP, by refusing to specify that Student receives paraprofessional support. For the reasons explained below, the SCO concludes that the IEP accurately described the special education and related services that Student would receive, pursuant to the IEP Team's determination, made on January 9<sup>th</sup> and February 6<sup>th</sup>.

An IEP must include, among other things, 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, and a statement of the program modifications or supports for school personnel that will be provided to enable the child – (i) to advance appropriately toward attaining the annual goals; (ii) to be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this section." 34 C.F.R. § 300.320(a)(4). This statement, commonly known as a service delivery statement, must be sufficiently detailed for parents to understand what specific services and supports the school district is offering to provide. *Tamalpais Union Sch. Dist. V. D.W.*, 70 IDELR 230 (N.D. Cal 2017) ("Parents can't make an informed decision on whether to accept a proposed IEP if the document includes only a vague description of the student's services."); *see also Douglas Cnty. Sch. Dist.*, 118 LRP 35788 (SEA CO 7/6/18).

The SCO concludes that the statement contained in Student's February 6, 2019 IEP regarding additional adult support accurately reflects the IEP team's decision on January 9, 2019 and February 6, 2019 that paraprofessional support is not necessary to implement Student's BIP. This dispute centers on Parent's disagreement with the IEP team on whether dedicated paraprofessional support is necessary to support Student. As detailed above in Finding of Fact #6-33, the IEP team collected data, considered input from Parent and Private Therapist, and concluded that it was not. Despite the IEP Team's decision that paraprofessional support was not required, the District provided consistent paraprofessional support in Classroom Teacher's classroom from December 2018 until May 2019. In effect, the District is providing a higher level of support than Student's IEP team determined was necessary. The fact that the District is providing more support than the IEP team determined is necessary neither proves that paraprofessional support is required, nor does it result in a violation. *See Forest Grove Sch.*

*Dist. v. Student*, Civ. No. 3:12-cv-01837-AC, 2014 WL 2592654 (D. Ore. June 9, 2014)(“The District did not retroactively interfere with Parents’ rights when it struck a compromise and provided more speech and language therapy that District personnel thought educationally necessary.”).

Significantly, Parent is not alleging the District failed to provide the level of support she believes is necessary to support Student, rather her objection is that the IEP does not accurately describe the level of services Student currently receives. However, an IEP must “include information about the services that will be provided to the child, so that the level of the agency’s commitment of resources will be clear to parents and other IEP Team members.” 71 Fed. Reg. 46667 (August 14, 2006). Here, the statement contained in the IEP explaining that if Student becomes dysregulated, additional adult support will be available meets the above standard. That statement, based on the IEP team’s judgement and conclusion, as well as significant input from Parent, accurately conveyed the District’s commitment of resources. That is, that additional adult support will be available when necessary for Student’s needs, but that does not include the allocation of a dedicated paraprofessional. Accordingly, the SCO does not find a violation.

**Conclusion to Allegation Two:** The District has provided Parent with a meaningful opportunity to participate in the development of Student’s IEP.

The IDEA's procedural requirements for developing a child’s IEP are designed to provide a collaborative process that "places special emphasis on parental involvement." *Sytsema v. Academy School District No. 20*, 538 F.3d 1306, 1312 (10th Cir. 2008). To that end, the IDEA requires that parental participation be meaningful, to include carefully considering concerns for enhancing the education of the child. 34 C.F.R. §§ 300.321(a)(1), 300.322, and 300.324(a)(1)(ii). Meaningful consideration occurs where the IEP team listens to parental concerns with an open mind, exemplified by answering questions, incorporating some requests into the IEP, and discussing privately obtained evaluations, preferred methodologies, and placement options, based on the individual needs of the student. *O’Toole v. Olathe District Schools Unified School District No. 233*, 144 F.3d 692, 703 (10th Cir. 1998). Meaningful consideration does not require that a school district simply agree to whatever a parent has requested. *Jefferson County School District RE-1*, 118 LRP 28108 (SEA CO 4/22/18).

Based on the following factors, the SCO concludes that the District provided Parent a meaningful opportunity to participate in all phases of Student’s IEP: extensive collaboration with Private Therapist, consideration of Parent’s concerns at the January 9<sup>th</sup> meeting, the agreement to conduct DRMs every two weeks to discuss Student’s BIP, and changing Student’s annuals goals after the February 6<sup>th</sup> IEP meeting by specifically adopting goals presented by Parent.

First, at Parent's request, the District collaborated extensively with Student's Private Therapist in developing his BIP. School Psychologist met with Private Therapist and together they developed the initial behavior chart to document Student's negative self-talk. Private Therapist also observed Student in the classroom on November 14, 2018, and her observations were shared with and considered by School Psychologist. School Psychologist interviewed Private Therapist as part of Student's FBA, the BIP later developed was also adjusted based on Private Therapist's recommendations. Finally, the District included Private Therapist in one of the Data Review Meetings discussed below.

Second, as detailed in Finding of Fact #16, Parent brought a list of 6 concerns to the January 9<sup>th</sup> meeting to discuss Student's BIP. The PWN issued the same day illustrates that the District thoughtfully considered each of Parent's concerns, and adopted the majority of her suggestions. Additionally, Parent told the SCO that the District agreed to change Student's BIP based on her concerns. The only item the IEP team declined to adopt was to add the specific language Parent requested regarding paraprofessional support. As the 11<sup>th</sup> Circuit Court of Appeals stated, evidence that a district "was receptive and responsive at all stages" to the parents' position, even if it was ultimately rejected, is illustrative of parental participation. *R.L. v. Miami-Dade Cnty. Sch. Bd.*, 757 F.3d 1173, 1188 (11<sup>th</sup> Cir. 2014).

Third, the District's agreement to hold DRMs every two weeks to discuss the data collected on Student's BIP far exceeds IDEA's progress monitoring requirements, and demonstrates the District's efforts to meaningfully collaborate with Parent and assuage her concerns regarding Student's BIP. IDEA requires "periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided." 34 C.F.R. § 300.320(a)(3)(ii). "The specific times that progress reports are provided to parents and the specific manner and format in which a child's progress toward meeting the annual goals is reported is best left to state and local officials to determine." 71 Fed. Reg. 46664 (2006). Following the January 9<sup>th</sup> meeting to discuss Student's BIP, the District agreed to conduct DRMs every two weeks to discuss Student's BIP. The regular participants at these meetings were Parent, School Psychologist, and Elementary Coordinator, though on at least one occasion, Private Therapist was included. At the DRMs, the participants discuss the data collected by Paraprofessional 1 and Paraprofessional 2 regarding Student's BIP. This data was also emailed to Parent on a nightly basis by Classroom Teacher. All of the participant's thoughts and concerns are discussed, and the BIP is adjusted accordingly. Here, the SCO concludes that the DRMs conducted by the District exceed the above requirements, and illustrate that Parent's right to participate was not impeded.

Finally, the IEP team not only considered Parent's suggestion during the February 6, 2019 IEP meeting, but changed Student's annual goals pursuant to her suggestions. Additionally, Student's BIP was further updated based on feedback from Parent. Because the District has consistently listened to and responded to Parent's concerns, collaborated with the family's

private providers, and incorporated Parent's suggestions into Student's IEP and BIP, the SCO finds that the District provided Parent a meaningful opportunity to participate in the development of Student's educational program.

### **REMEDIES**

Concluding that the District has not violated IDEA, no remedy is ordered.

### **CONCLUSION**

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

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

Dated this 12th day of June, 2019

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Thomas Treinen  
State Complaints Officer

## **Appendix**

### **Complaint, pages 1-8**

- Ex. 1: Behavioral Intervention Plan dated February 7, 2019
- Ex. 2: IEP dated February 6, 2019
- Ex. 3: Email correspondence between advocate and School dated February 14, 2019
- Ex. 4: Parent's proposed IEP revisions dated February 13, 2019
- Ex. 5: Parent's concerns relating to February 6, 2019 IEP meeting
- Ex. 6: Email correspondence between February 25, 2019 and February 28, 2019

### **Response, pages 1-11**

- Ex. A: District policies and procedures
- Ex. B: Notice of meeting dated Jan 26, 2018; BIP dated February 8, 2018; IEP dated February 7, 2018; request to conduct FBA; FBA dated November 28, 2018; IEP amendment dated December 7, 2018; IEP snapshot dated February 6, 2019; IEP dated February 6, 2019; BIP dated February 7, 2019; IEP amendment dated April 15, 2019;
- Ex. C: Paraprofessional support documentation
- Ex. D: Behavior support tracking charts
- Ex. E: Special Education Teacher service notes
- Ex. F: PWN dated: February 7, 2018; January 9, 2019; February 6, 2019
- Ex. G: Notices of meeting dated: January 26, 2018; November 30, 2018; January 7, 2019; January 18, 2019
- Ex. H: Grade and progress reports for 2017-18 and 2018-19 school years
- Ex. I: Email correspondence
- Ex. J: list of District personnel

### **Reply, pages 1-19**

- Ex. 7 Student behavior sheets

### **Interviews with:**

Parent  
Advocate  
Classroom Teacher  
Paraprofessional 1  
Paraprofessional 2  
School Psychologist  
Elementary Coordinator  
Special Education Director