

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

State-Level Complaint 2023:501
Larimer R-1 (Poudre – Fort Collins) School District

DECISION

INTRODUCTION

On January 3, 2023, the parents (“Parents”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state-level complaint (the “Complaint”) against the Larimer R-1 (Poudre – Fort Collins) School District (“District”). The State Complaints Officer (the “SCO”) determined that the Complaint identified one (1) allegation subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153. Therefore, the SCO has jurisdiction to resolve the Complaint.

RELEVANT TIME PERIOD

Pursuant to 34 C.F.R. §300.153(c), the Colorado Department of Education (“CDE”) has the authority to investigate alleged violations that occurred not more than one year from the date the original complaint was filed. Accordingly, this investigation will be limited to the period of time from January 3, 2022 through January 3, 2023 for the purpose of determining if a violation of IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations. Findings of noncompliance, if any, shall be limited to one year prior to the date of the complaint.

SUMMARY OF COMPLAINT ALLEGATIONS

Whether District denied Student a Free Appropriate Public Education (“FAPE”) because District:

1. Failed to conduct a meeting to develop an IEP for Student within 30 days of a determination, on or about December 1, 2022, that Student needs special education and related services, in violation of 34 C.F.R. § 300.323(c)(1).

¹ The IDEA is codified at 20 U.S.C. § 1400, *et seq.* The corresponding IDEA regulations are found at 34 C.F.R. § 300.1, *et seq.* The Exceptional Children’s Education Act (“ECEA”) governs IDEA implementation in Colorado.

FINDINGS OF FACT

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

A. Background

1. Student is fifteen years old and resides out of state at a residential boarding school (“Residential Center”). *Exhibit P*, p. 10; *Exhibit E*. Parents unilaterally placed Student at Residential Center in May of 2022. *Exhibit P*, p. 3. Parents reside within the geographical boundaries of District. *Response*, p. 1. Prior to the 2022-2023 academic year, Student was not identified as eligible for special education and related services. *See Response*, p. 4.
2. On September 7, 2022, Parents contacted District and requested that District evaluate Student for eligibility for special education and related services. *Id.* at p. 4; *Exhibit G*, p. 1. District held a referral meeting with Parents on September 19, 2022, and proposed to evaluate Student in the areas of general intelligence, communicative status, academic performance, social/emotional status, health, and motor abilities. *Response*, p. 4; *Exhibit C*, pp. 1-3. Parents were provided with a copy of the procedural safeguards and prior written notice (“PWN”) of District’s proposal to evaluate on September 23, 2023, and Parents signed consent for the evaluation on September 30, 2022. *Exhibit C*, p. 1.
3. Parents indicated Student could not be made available within District for the evaluation, so in October of 2022, District sent a team of staff out of state to Residential Center to evaluate Student. *Response*, p. 4. An evaluation report was completed on November 18, 2022, and provided to Parents on the same date. *Exhibit H*, pp. 1-50; *Complaint*, p. 3.
4. On November 29, 2022, a properly composed multidisciplinary team (the “MDT”) met virtually to discuss the results of the evaluation and Student’s eligibility for special education and related services. *Response*, p. 4; *Exhibit D*, pp. 3-4; *Exhibit E*. The MDT was comprised of seven District personnel (Director of Special Education, Out of District Placement Coordinator, School Psychologist, a speech language pathologist, an occupational therapist, a special education teacher, and a general education teacher), three personnel from Residential Center (at Parents’ request), and legal counsel for both parties. *Response*, p. 4; *Exhibit E*; *Interview with Director of Special Education*.
5. At the November 29, 2022 meeting, the MDT met for approximately two hours; however, the MDT was unable to complete the review of the evaluation report and consider Student’s eligibility during the meeting, so an additional MDT meeting was scheduled for December 1, 2022. *Response*, p. 4; *Exhibit D*, pp. 1-2; *Exhibit E*.

² The appendix, attached and incorporated by reference, details the entire Record.

6. On December 1, 2022, the MDT met again. *Exhibit E*. At this meeting, the MDT completed the review of the evaluation report and determined Student qualified for special education and related services under the Serious Emotional Disability (“SED”) category, and further, that Student met the criteria for a secondary disability under the Autism Spectrum Disorder (“ASD”) and Other Health Impairment (“OHI”) disability categories. *Response*, p. 4; *Exhibit E*; *Exhibit F*, pp. 1-6. Following the eligibility determination, the meeting participants agreed to schedule an IEP meeting to develop an IEP (the “2023 IEP”). *Complaint*, p. 4; *Exhibit E*.

B. District’s Practices and Procedures

7. District provided the SCO with information from its special education procedural manual, which is available to staff electronically (staff are also trained on the procedural manual during new employee orientation). *Exhibit J*, pp. 1-7; *Interview with Director of Special Education*. The procedural manual is also included in each special education employee’s “binder.” *Interview with Director of Special Education*. Special education staff are likewise trained on IDEA and District’s policies and procedures through quarterly staff meetings. *Id.* Director of Special Education indicated these trainings include information about District’s practices (to include District’s practice of holding IEP meetings within required timelines) but conceded there is nothing documented in writing about the required timelines for review by the SCO. *Id.*
8. The procedural manual includes a table titled “Timelines Related to Special Education Services” which describes various timeline requirements, such as for reevaluations, time from receipt of consent for an evaluation to an eligibility meeting, and timing for reporting progress on goals/objectives. *Exhibit J*, pp. 1-7. However, District conceded that the procedural manual—including the “Timelines Related to Special Education Services” table—does not contain information about IDEA’s requirement that an IEP meeting be held within 30 days of a determination that a student is eligible for special education and related services. *See id.*; 34 C.F.R. § 300.323(c)(1). The procedural manual also does not inform staff that proximity to a holiday break does not provide an exception to IDEA’s 30-day requirement. *Interview with Director of Special Education*; *Exhibit J*, pp. 1-7.
9. Notwithstanding, District indicated that its practice is to hold an IEP meeting immediately following an eligibility determination, and if such a meeting cannot occur immediately, it is the expectation that a meeting be scheduled “as soon as practicable but not beyond 30 days of an eligibility determination, regardless of school breaks.” *Response*, pp. 2-3. This practice is not documented in writing. *Id.*; *Interview with Director of Special Education*.

C. Scheduling the IEP Meeting

10. On December 6, 2022, District contacted Parents to schedule an IEP meeting to develop the 2023 IEP. *Response*, p. 4; *Complaint*, p. 4. Parents provided three dates when Parents and

the staff at Residential Center were available prior to December 21, 2022, when District's holiday break was scheduled to begin. *Complaint*, p. 4.

11. Upon receiving Parents' availability, District staff attempted to find shared availability for an IEP meeting on the dates proposed by Parents. *Interview with Director of Special Education; see Exhibit K*, pp. 1-3. School Psychologist created a "doodle poll" for Director of Special Education and Out of District Placement Coordinator to provide their availability, but Director of Special Education, Out of District Placement Coordinator, and School Psychologist only had shared availability for approximately two hours on one of the dates proposed by Parents. *Exhibit K*, pp. 1-3; *Interview with Director of Special Education; Response*, p. 4.
12. District "feared" that forcing a meeting onto the calendar prior to winter break would not have been "conducive to produce a comprehensive IEP" as required members of the IEP Team would have needed to be excused, which could have impeded Parents' opportunity to "fully participate." *Interview with Director of Special Education; Response*, p. 6. Because of this, District indicated it had "no choice" but to consider times after the holiday break. *Response*, pp. 4-5.
13. Director of Special Education explained that Out of District Placement Coordinator is a social worker by background, and District thought Student's needs might require connecting with community resources and supports for the family. *Interview with Director of Special Education*. Out of District Placement Coordinator was necessary to provide input about social/emotional services that the team identified to support Student in the 2023 IEP. *Id.* Similarly, School Psychologist was the "lead psych" on the team that evaluated Student at Residential Center and has a background working with students with needs like those of Student, so her input was "critically important" to the development of the 2023 IEP. *Id.*
14. On December 13, 2022, District informed Parents that District staff did not have shared availability on the dates Parents proposed, so the IEP meeting would have to occur following the holiday break. *Response*, p. 4; *Complaint*, p. 4. Parents indicated they would meet with District on January 10, 2023, the fourth day of classes following District's holiday break (and the first date offered by District). *Complaint*, p. 4; *see Exhibit I*, pp. 1-4.
15. On January 10, 2023, a properly constituted IEP Team met to develop the 2023 IEP. *Exhibit D*, pp. 5-6; *Exhibit E*. The IEP Team consisted of the same individuals who composed the MDT, including the staff from Residential Center who attended at Parents' request. *Id.*; *Interview with Director of Special Education; Exhibit P*, p. 7. The IEP Team met for approximately two hours before Parents, through counsel, requested that the meeting be rescheduled to a later date. *Exhibit E*. A second IEP meeting was scheduled for January 25, 2023. *Exhibit E; Exhibit P*, pp. 1-2.

16. On January 25, 2023, the IEP Team met again and finished developing the 2023 IEP. *Interview with Director of Special Education; see Exhibit P, pp. 1-25.*
17. District provided the SCO with recordings of the November 29 and December 1, 2022 MDT meetings, as well as the January 10, 2023 IEP meeting (the January 25, 2023 IEP meeting was held after the Response was provided to the SCO). *See Exhibit E.* Upon review of recordings, the SCO finds Parents were afforded significant opportunity to participate in the meetings, and that the MDT/IEP Team spent significant time considering input from Parents and staff at Residential Center who attended the meetings at Parents' request. *Exhibit E.*

D. The 2023 IEP

18. The 2023 IEP documents Student's strengths, preferences, and interests; including that Student reports that he is a hands-on, visual learner; that Student has age-appropriate manners and is able to follow classroom routines and transitions; and that Student is interested in music, extreme sports, and solving puzzles. *Exhibit P, p. 9.*
19. The 2023 IEP reviews Student's present levels of performance, summarizing the results of the 2022 evaluation (to include information about Student's grades and observations from staff at Residential Center). *Id.* at pp. 10-11.
20. The Student Needs and Impact of Disability section documents that Student's difficulties with emotional regulation, lack of coping skills, difficulties with social interaction skills, and difficulties with hyperactive/impulsive behavior affect his learning across all subject areas. *Id.* at p. 12. Student needs specialized instruction and supports related to self-regulation, self-determination, social interaction skills, and task completion, as well as accommodations to support handwriting in the general education setting. *Id.* In addition, because of "high cognitive abilities" Student needs access to high quality instruction that will challenge and stimulate him intellectually. *Id.*
21. The Parent/Student Input section contains detailed input from Parents, including that Parents indicate what is documented for secondary goals for Student (pursuing a career in music) is not consistent with what Parents hear from Student. *Id.* Parents indicate Student does not see himself graduating from high school, and his response to questions about his post-secondary goals may be "performative." *Id.* The 2023 IEP also documents Parents' position and rationale that Student should be placed at Residential Center. *Id.*
22. The 2023 IEP contains a post-school goal for Student to complete training or a program in music following graduation from high school. *Id.* at p. 13. Student will be taught, and practice, skills related to self-direction (i.e., following a daily routine, following directions, and starting and completing tasks) to live independently as an adult. *Id.* Student's "Study Skills/Social Skills" teacher will provide instruction, strategies, and support regarding his social skills, executive functioning, and anxiety. *Id.* at p. 15. The school counselor will

“provide direct consult” to Student and register him for classes that allow him to prepare for a post-secondary education and career in music. *Id.*

23. The 2023 IEP contains five annual goals in the areas of social/emotional wellness and self-determination. *Id.* at pp. 15-17.

24. The 2023 IEP contains accommodations to help Student access the general education curriculum, including checks for understanding of assignments and verbally presented information; extra processing time; presentation of choices to empower decision-making; preferential seating near point of instruction or a positive peer; prompts and reminders to use calming strategies and tools when anxious, frustrated, or angry; and consistent use of positive reinforcement. *Id.* at pp. 17-18.

25. The Service Delivery Statement of the 2023 IEP provides for:

- a. 400 minutes per week of direct instruction and support outside the general education setting for emotional regulation, social skills, and executive functioning;
- b. 1,595 minutes per week of direct instruction and support inside the general education setting for emotional regulation, social skills, and executive functioning;
- c. 60 minutes per month of indirect services involving collaboration between Student’s special education teacher and his general education teachers regarding his emotional regulation, social skills, social interactions, and executive functioning needs;
- d. 60 minutes per week of direct instruction outside the general education setting for social skills and reciprocal social interaction; and
- e. 90 minutes per month of indirect social/emotional support outside the general education setting.

Id. at p. 21.

26. The IEP Team determined it is appropriate for Student to be in the general education classroom 40 to 79 percent of the time. *Id.* at p. 22. The 2023 IEP indicates Student will attend a District high school (“School”). *Id.* at p. 6.

27. The PWN section of the 2023 IEP contains detailed information about other options considered by the IEP Team, such as nine additional goals that Parents and staff at Residential Center requested be added to the 2023 IEP and placing Student at a facility like

Residential Center. *Id.* at p. 24. The additional goals proposed by Parents and Residential Center staff were rejected because they “fell short in varying ways related to the delineation of antecedent conditions, specification of observable target behaviors, and measurability.” *Id.* at pp. 23-24. However, many of the highlighted needs were included in previously drafted goals, accommodations, and services; and upon review of the goals proposed by Parents and the staff at Residential Center, the IEP Team drafted two new additional goals which were included in the 2023 IEP. *Id.* Student’s placement at a residential facility was rejected because (1) the services in the 2023 IEP can be provided at School, (2) Residential Center is a more restrictive setting, and (3) evaluation data demonstrates that Student can access education in a less restrictive setting. *Id.* at p. 24.

28. Although the 2023 IEP was finalized on January 25, 2023, Parents disagreed with the IEP Team’s decision regarding placement and indicated Student should be placed at a facility like Residential Center. *Interview with Director of Special Education; see Exhibit P*, pp. 6-25. Student remains unilaterally placed by Parents out of state at Residential Center as they have elected not to send Student to School. *Interview with Director of Special Education.*

E. The Complaint

29. Parents’ concern identified in the Complaint is that District failed to hold an IEP meeting within 30 days of the MDT’s December 1, 2022 determination that Student is eligible for special education and related services. *Complaint*, p. 6.

30. To remedy this concern, Parents requested “[c]ompensatory services for the five days lost because [Student’s] initial IEP was not developed within the 30-day deadline required by law” as well as a “directive” that District comply with the requirements of 34 C.F.R. § 300.323(c)(1) despite holiday breaks. *Complaint*, p. 6. In the Complaint, Parents indicated that Student “receives better access to his education at [Residential Center] than he ever has at any other placement” but that Student did not have an IEP through Residential Center when the Complaint was filed. *Id.* at p. 5. Parents contended that, once District developed an IEP for Student, Residential Center would “be able to service that IEP properly and provide [Student] with even greater access to his education.” *Id.*

31. The SCO requested an interview with Parents to discuss their position and the request for compensatory services; however, Parents declined an interview with the SCO.

32. In its Response, District conceded that the January 10, 2023 IEP meeting was held more than 30 days after the December 1, 2022 eligibility determination. *Response*, p. 5. District indicated that holding the meeting more than 30 days after the eligibility determination is not its regular practice, and extenuating circumstances necessitated postponing the initial IEP meeting until after the holiday break. *Response*, p. 6. Nevertheless, District indicated Parents’ request for five days of compensatory services is “modest” and that it is willing to provide Student with five days of compensatory services consistent with the 2023 IEP. *Id.*

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District failed to conduct a meeting to develop an IEP for Student within 30 days of a determination, on or about December 1, 2022, that Student needs special education and related services, in violation of 34 C.F.R. § 300.323(c)(1). This violation did not result in a denial of FAPE.

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17; ECEA Rule 2.19. The IEP is “the centerpiece of the statute's education delivery system for disabled children . . . [and] the means by which special education and related services are ‘tailored to the unique needs’ of a particular child.” *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). Each public agency must ensure that a meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services. 34 C.F.R. § 300.323(c)(1). IDEA does not contain exceptions to this rule for school breaks, regardless of their length and impact on staff availability. *See id.*; *Cf. Letter to Reyes*, 59 IDELR 49 (OSEP 2012) (concluding that school districts may not delay the initial evaluation of a student with a disability because of a school break).

In this case, the MDT determined Student qualified for special education and related services on December 1, 2022. (FF # 6). Thus, District was required to hold a meeting to develop the 2023 IEP within 30 days of December 1, 2022 (i.e., on or before December 31, 2022). *See* 34 C.F.R. § 300.323(c)(1). District did conduct a meeting to develop the 2023 IEP until January 10, 2023. (FF #s 14-15).

District maintains that extenuating circumstances necessitated postponing the IEP meeting until January 10, 2023, but acknowledges that the January 10, 2023 initial IEP meeting was held more than 30 days after the MDT’s December 1, 2022 determination. (FF # 32). District concedes there was an opportunity to hold the IEP meeting on one of the three dates proposed by Parents prior to the holiday break. (FF # 11). District also did not offer to meet with Parents or allow Parents input about whether to hold the meeting prior to the holiday break. *See* (FF #s 12, 14).

The SCO understands that such a meeting may have been limited in duration and that completion of the 2023 IEP may have required a second meeting due to District staff availability, but IDEA requires the initial meeting to develop the IEP to be held within 30 days of the eligibility determination. *See* 34 C.F.R. § 300.323(c)(1). The SCO accordingly finds and

concludes that District failed to hold a meeting to develop the 2023 IEP within 30 days of determining Student qualified for special education and related services, resulting in a procedural violation of 34 C.F.R. § 300.323(c)(1).

Procedural violations of IDEA are only actionable to the extent that they impede the child's right to FAPE, significantly impede the parents' opportunity to participate in the decision-making process regarding the provision of FAPE, or cause a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).

In this case, the SCO finds and concludes that District's procedural violation did not impede Student's right to FAPE, significantly impede Parents' opportunity to participate in the decision-making process, or cause a deprivation of educational benefit.

First, although the January 10, 2023 IEP meeting was held outside of the 30-day period required by IDEA, and four days into the spring semester of the 2022-2023 academic year, there is no evidence of educational harm to Student. (FF # 14). The 2023 IEP was finalized on January 25, 2023, and District made an offer of FAPE, but following the development of the 2023 IEP, Parents withheld Student from School because of a placement disagreement. (FF #s 16, 28).

Parents indicate that Student is currently receiving a better access to his education at Residential Center than he has at any other previous placement. (FF # 30). Parents also indicated that Residential Center would provide Student with "even greater access" to his education once the 2023 IEP was developed. (*Id.*). However, the IEP Team, as reflected in the 2023 IEP, determined it was appropriate for Student to attend School and be in the general education environment 40 to 79 percent of the time. (FF # 26).

Parents disagreed and declined to send Student to School under the 2023 IEP, instead keeping Student at Residential Center, and requested compensatory education to remedy District's delay in developing the 2023 IEP. (FF #s 28, 30). Parents cannot claim Student suffered an educational deprivation because the 2023 IEP was not developed sooner where District continues to make an offer of FAPE and Parents unilaterally reject the offer of FAPE by not sending Student to School. (FF #s 18-28). The SCO requested an interview with Parents to better understand the request for compensatory services, but Parents declined. (FF # 31).

Second, the evidence demonstrates District afforded Parents with meaningful participation in both the determination of Student's eligibility and the development of the 2023 IEP. District met with Parents over the course of four meetings on November 29 and December 1, 2022, and January 10 and 25, 2023. (FF #s 4-6, 15-16). Parents were afforded the opportunity to participate in those meetings, and consideration was given to both Parents' input, and to that of Residential Center staff who were invited to the meetings at Parents' request. (FF # 17).

Parents' input—including their disagreement with Student's placement—is documented in detail in the 2023 IEP, and Parents' position was discussed and considered by the MDT/IEP

Team. (FF #s 17, 21, 27). Although the IEP Team did not accept every one of Parents' requests regarding the development of the 2023 IEP (e.g., Student's placement), their input and the input of Residential Center staff resulted in substantive changes to the 2023 IEP (e.g., the development of two annual goals based on the nine goals proposed by Parents and Residential Center staff). (FF # 27). All of Parents' requests are documented in the 2023 IEP, including the IEP Team's reason for rejecting any requests. See (FF #s 21, 27).

For these reasons, and upon consultation with CDE Content Specialist, the SCO finds and concludes that District's violation did not result in a substantive denial of FAPE.

Systemic IDEA Violations: This investigation demonstrates a violation that is systemic and will likely impact the future provision of services for all children with disabilities in District if not corrected. 34 C.F.R. § 300.151(b)(2).

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

Here, the SCO finds and concludes that the violation noted in this Decision is systemic, and likely to impact other students if not addressed. Although District maintains a comprehensive special education manual which includes a table of timelines related to special education, there is nothing in District's manual that addresses IDEA's requirement that an IEP meeting be held within 30 days of a determination that a student qualifies for special education and related services consistent with 34 C.F.R. § 300.323(c)(1). (FF #s 7-9). There is also nothing in District's special education manual, or its written policies and procedures, which informs staff that proximity to a holiday break does not create an exception to this rule. (FF # 8).

District indicates its practice is to hold IEP meetings as soon as practicable following a determination that a child is eligible for special education, but the SCO is concerned because this practice is undocumented. District trains staff on the procedural manual and special education timelines, but there is nothing in District's written policies and procedures that address the 30-day requirement noted in this Decision, and indeed, there is nothing in the Record to demonstrate that District staff are aware of the requirement.

The SCO finds and concludes, upon consultation with CDE Content Specialist, that without written procedures, there is nothing to ensure staff do not schedule IEP meetings outside of the 30-day period required by IDEA, particularly when, as here, the 30 days fall near or over a holiday break. The SCO will accordingly craft a remedy which requires District to develop procedures to address this requirement.

REMEDIES

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

1. Failing to conduct a meeting to develop an IEP for Student within 30 days of determining that Student needs special education and related services, in violation of 34 C.F.R. § 300.323(c)(1)

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

1. Corrective Action Plan

- a. By **Monday, April 3, 2023**, District shall submit to CDE a corrective action plan (“CAP”) that adequately addresses the violations noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom District is responsible. The CAP must, at a minimum, provide for the following:

- i. Director of Special Education, Out of District Placement Coordinator, and School Psychologist must review this Decision, as well as the requirements of 34 C.F.R. § 300.323. This review must occur no later than **Friday, April 14, 2023**. A signed assurance that these materials have been reviewed must be completed and provided to CDE no later than **Monday, April 24, 2023**.

2. Procedures to Address Systemic Violation

- a. By **Monday, May 8, 2023**, District shall submit to CDE Special Education Monitoring and Technical Assistance Consultant, finalized written procedures to address all systemic concerns noted in this Decision, to specifically include procedures regarding the timing of initial IEP meetings following a determination that a student is eligible for special education and related services. These procedures must be consistent with the requirements of 34 C.F.R. § 300.323 and must inform staff that proximity to a holiday break does not provide an exception to IDEA’s special education timelines. CDE will then conduct follow up activities, if any, as appropriate.

Please submit the documentation detailed above to CDE as follows:

Colorado Department of Education
Exceptional Student Services Unit
Attn.: CDE Special Education Monitoring and Technical Assistant Consultant
1560 Broadway, Suite 1100
Denver, CO 80202-5149

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

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. *CDE State-Level Complaint Procedures*, ¶13. If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *CDE State-Level Complaint Procedures*, ¶13; *See also* 34 C.F.R. § 300.507(a); *71 Fed. Reg. 156, 46607* (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned SCO.

Dated this 4th day of March, 2023.



Ross Meyers
State Complaints Officer

APPENDIX

Complaint, pages 1-7

Response, pages 1-8

- Exhibit A: 2023 IEP (draft)
- Exhibit B: PWN (eligibility)
- Exhibit C: PWN (request for consent)
- Exhibit D: NOM(s)
- Exhibit E: Recordings of MDT/IEP Meetings
- Exhibit F: Eligibility Determination
- Exhibit G: Parent's Request for Evaluation (email)
- Exhibit H: Evaluation Report
- Exhibit I: Academic Calendar
- Exhibit J: Policies and Procedures
- Exhibit K: Correspondence
- Exhibit L: none
- Exhibit M: none
- Exhibit N: Verification of Delivery to Parents
- Exhibit O: Other Relevant Documentation
- Exhibit P: 2023 IEP (finalized)

Reply, pages 1-3

Telephone Interviews

- Director of Special Education: February 3, 2023
- Parents: Declined an Interview via email on February 6, 2023