

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 2023:622**  
**San Juan BOCES**

**DECISION**

**INTRODUCTION**

On December 15, 2023, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> filed a state-level complaint (“Complaint”) against Dolores County School District RE-2J (“District”), a member district of the San Juan BOCES (“BOCES”). The State Complaints Officer (“SCO”) determined that the Complaint identified two allegations 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 (the “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 December 15, 2022 to the present 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 BOCES denied Student a Free Appropriate Public Education (“FAPE”) because the BOCES:

1. Failed to provide Parent with proper notice of an IEP Team meeting in February 2023, in violation of 34 C.F.R. § 300.322, specifically by:
  - a. Failing to schedule the meeting at a mutually agreeable time and place; and

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<sup>1</sup> 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.

- b. Failing to provide Parent with required notice of the scheduled meeting.
2. Failed to protect the confidentiality of Student’s personally identifiable information (“PII”) and disclosed Student’s PII to other parties without Parent’s consent, in violation of 34 C.F.R. §§ 300.622-623, specifically by:
  - a. Allowing unnecessary individuals in the room during an IEP meeting in February 2023.

### **FINDINGS OF FACT**

After thorough and careful analysis of the entire Record,<sup>2</sup> the SCO makes the following FINDINGS OF FACT:

#### **A. Background**

1. Student attends fifth grade at a District elementary school (“School”). *Response*, p. 1. The District is a member of the BOCES. *Id.* The BOCES is responsible for providing FAPE to all IDEA-eligible children with disabilities attending school in its member districts. ECEA Rule 2.02.
2. Student is eligible for special education and related services under the disability category of Specific Learning Disability (“SLD”). *Exhibit A*, p. 4. Specifically, Student’s SLD impacts him in the areas of reading and written expression. *Id.* at p. 6.
3. Case Manager described Student as an amazingly sweet young man. *Interview with Case Manager*. Student enjoys wrestling and baseball, as well as outdoor activities, such as hunting and riding horses. *Interviews with Case Manager and Parent*. He is a highly motivated, hard-working student. *Id.*
4. Parent (subsequently referred to as “Father”) and Student’s mother (“Mother”) are divorced; however, Parents share joint decision-making on education issues. *Exhibit F*, p. 3.

#### **B. BOCES and District Practices**

5. Both BOCES and District staff play a role in scheduling IEP Team meetings. *Interviews with BOCES Director of Exceptional Student Services (“BOCES Director”), BOCES ESS Assistant, and Case Manager*. The BOCES creates spreadsheets for each member district that include the due dates for annual IEP Team meetings and triennial evaluation dates. *Interview with BOCES Director*.

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<sup>2</sup> The appendix, attached and incorporated by reference, details the entire Record.

6. When an IEP Team meeting needs to be scheduled, the case manager works with students' families and BOCES and District staff to find a mutually agreeable time for the meeting. *Id.* The District tries to schedule IEP Team meetings at least two weeks before the deadline to allow some flexibility if parents or District staff need to reschedule. *Interview with Case Manager.* Once the date and time have been selected, the case manager adds the meeting to the spreadsheet. *Interviews with BOCES Director and BOCES ESS Assistant.*
7. Next, the case manager sends an electronic calendar invitation to all District staff invited to the meeting, the student's parents, and BOCES ESS Assistant. *Id.* Receipt of the calendar invitation prompts BOCES ESS Assistant to create a Notice of Meeting and email it to parents. *Id.* The BOCES aims to send Notices of Meeting at least 10 business days prior to the meeting. *Interview with BOCES ESS Assistant.*

### **C. Scheduling of IEP Team Meeting**

8. Student's annual IEP review was due on or before February 8, 2023. *Supplement to Exhibit A, p. 1.*
9. On January 25, 2023, at 7:54 p.m., Case Manager sent a calendar invitation to BOCES and District staff for Student's IEP Team meeting. *Exhibit H, p. 1.* Parents were not included in the calendar invitation. *Id.* The IEP Team meeting was scheduled for Wednesday, February 1, 2023, at 2:00 p.m. *Id.* at p. 3. Even though Case Manager had yet to contact Parents, the invitation noted that, on January 25, Case Manager "[s]poke to parents, they will attend." *Id.* at p. 3; *Interview with Case Manager.*
10. At 8:28 a.m. on January 26, BOCES ESS Assistant emailed a copy of the Notice of Meeting to Parents. *Exhibit D, p. 16.* The email and the Notice indicated that the IEP Team meeting was scheduled for February 1 at 2:00 p.m. *Id.* The body of the email contained a link to attend the meeting virtually. *Id.*
11. Case Manager texted Parents later on January 26 to discuss scheduling Student's IEP Team meeting. *Id.* at p. 14; *Interview with Case Manager.* Case Manager did not recall having any conversations with Parents about the IEP Team meeting prior to these text messages. *Interview with Case Manager.*
12. Case Manager separately informed Parents via text message that Student's IEP Team meeting had been scheduled for Wednesday, February 1 at 2:00 p.m. and asked if that time worked. *Exhibit D, pp. 1, 2.* Mother indicated she could "try to arrange" her schedule to attend. *Id.* at p. 2. Case Manager asked Mother if she could meet at 12:00 p.m. or 3:00 p.m. instead, because Occupational Therapist had another meeting scheduled for 2:00 p.m. *Id.* at p. 5. Mother did not respond, but the following day, Case Manager texted that 3:00 p.m. was the best time for District staff. *Id.* Mother replied: "Let me talk to my boss I no [sic] anytime Thurs would be better or a [M]on[day] because my work schedule is Tues Wed Friday." *Id.* at p. 4.

Case Manager said she would talk to Occupational Therapist to see if she was available on another day. *Id.* Mother indicated she could meet between 12:30-2:00 on Wednesdays or, if not, asked if “[Grandmother] and [Private Occupational Therapist] come and I can keep the parent teacher conference?” *Id.* at p. 3. Case Manager said she would check on other options and let Mother know. *Id.*

13. The day before the scheduled meeting, Case Manager texted Mother: “After talking to everyone, can we do 3:00 tomorrow and then we’ll meet with you separately to go over the IEP?” *Id.* at p. 6. Mother did not respond to this text message. *Id.* Case Manager suggested she also talked to Mother over the phone but acknowledged that she did not have any documentation that such a call occurred. *Interview with Case Manager.*
14. Father did not respond to Case Manager’s initial January 26 text message. *Exhibit D*, p. 1. That same afternoon, Case Manager wrote that she would have to change the time: “It will be next Wednesday afternoon, but a different time.” *Id.*; *Interview with Case Manager.* Case Manager did not provide the new meeting time. *See Exhibit D*, pp. 1, 7-14. A few days later, Father texted Case Manager regarding a different matter, but he did not reply regarding the scheduled IEP Team meeting. *Id.*; *Interview with Case Manager.* Case Manager never followed up with Father to see if he could attend the IEP Team meeting. *Id.*; *Interview with Case Manager.*
15. Case Manager sent an updated calendar invitation on Tuesday, January 31, at 9:20 p.m. *Exhibit H*, p. 4. The IEP Team meeting was moved from 2:00 p.m. on February 1 to 3:00 p.m. on the same date. *Id.* Once again, Parents were not included on the calendar invitation. *Id.* The invitation indicated Parents were notified of the time change and would be attending the meeting. *Id.* at p. 6. However, Parents had not agreed to attend. *Interview with Case Manager.* Because the calendar invitation was changed so late, no revised Notice of Meeting was sent to Parents. *Interview with BOCES ESS Assistant.*

#### **D. IEP Team Meeting**

16. On February 1, 2023, the District convened Student’s IEP Team. *Interview with Case Manager.* Attendees at the meeting included Case Manager, General Education Teacher, Occupational Therapist, Interventionist, Grandmother, and Private Occupational Therapist (“Private OT”). *Id.*; *Exhibit A*, p. 5. Neither Father nor Mother were present for the IEP Team meeting. *Interview with Case Manager; Exhibit A*, p. 5.
17. Before the IEP Team meeting began, Case Manager knew Mother could not attend the meeting but was unsure whether Father would be able to attend. *Interview with Case Manager.* Case Manager did not pause the meeting to contact Father to ask whether he planned to come to the meeting. *Id.* Instead, Case Manager assumed that Father would not be present because he had not consistently attended IEP Team meetings in the past. *Id.*

18. Mother invited Grandmother and Private OT to attend the meeting. *Interview with Case Manager; Exhibit D*, p. 3. Though Student did not live with Grandmother, she often picked him up from School and helped with his homework afterschool. *Interview with Case Manager; Exhibit A*, p. 7. Private OT provided services to Student outside of School. *Interview with Case Manager; Exhibit A*, p. 7. Father was not aware Grandmother and Private OT were attending the meeting and did not provide consent for disclosure of any PII to them. *Complaint*, p. 7; *Interview with Father*.
19. The February 1 IEP Team meeting resulted in an IEP of the same date. *See Exhibit A*, pp. 4-14. BOCES ESS Assistant emailed the final version of the IEP to Parents on February 27. *Exhibit D*, p. 15.
20. On Tuesday, February 7, Father texted Case Manager to ask if she was “still having that meeting for [Student] tomorrow?” *Id.* at p. 8. Case Manager replied that the meeting was last Wednesday and offered to meet with Father to “go over everything.” *Id.* Father and Case Manager scheduled a time to meet, though they were unable to meet due to weather. *Interview with Case Manager*. That meeting was never rescheduled. *Id.*

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: The BOCES failed to provide Parent with proper notice of the IEP Team meeting in February 2023, in violation of 34 C.F.R. § 300.322. Additionally, the BOCES improperly conducted Student’s IEP Team meeting without one of his Parents in attendance, in violation of 34 C.F.R. §§ 300.321(a), 300.322(d). These violations resulted in a denial of FAPE.**

The first allegation in Father’s Complaint asserted that the BOCES failed to provide proper notice of the February IEP Team meeting to ensure Father had an opportunity to attend.

#### **A. Notice of the IEP Team Meeting**

The IDEA requires school districts to “take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate.” 34 C.F.R. § 300.322(a). Such steps include “[n]otifying parents of the meeting early enough to ensure they have an opportunity to attend” and “[s]cheduling the meeting at a mutually agreed on time and place.” *Id.*

Here, the BOCES failed to take either step to ensure Parents had an opportunity to participate in the IEP Team meeting. The BOCES did not notify Parents of the meeting early enough to ensure they could attend. On January 26—six days before the scheduled meeting—the BOCES sent Parents a Notice of Meeting indicating that Student’s IEP Team meeting was scheduled for February 1, 2023, at 2:00 p.m. (FF # 10.) That afternoon, Case Manager contacted Parents to

inform them of the date and time and inquire whether that date and time worked for Parents. (FF # 12.) This was Case Manager's first interaction with Parents regarding the February IEP Team meeting. (FF # 9.)

Later in the day on January 26, Case Manager realized the meeting time would need to be moved so Occupational Therapist could attend. (FF #s 12, 14.) Case Manager texted Father to say the meeting would be moved to another time on February 1, but never told him what time. (FF # 14.) The day before the scheduled meeting, Case Manager told Mother that 3:00 p.m. worked best for BOCES and District staff. (FF # 13.) Aside from the text messages, Parents received no official notification that the meeting time had changed. (FF #s 11-15.) Though Case Manager sent an updated calendar invitation the day before the meeting, Parents were not included on the invitation. (FF # 15.) The BOCES generated Notices of Meeting based on calendar invitations. (FF # 7.) Because the calendar invitation was changed so late, no revised Notice of Meeting was sent to Parents. (FF # 15.) Based on these facts, the SCO finds that the BOCES failed to provide Parents adequate notice of the IEP Team meeting.

The BOCES also neglected to schedule the meeting at a mutually agreed on time and place. Once Case Manager found a date and time that worked for BOCES and District staff, she informed Parents of the time and inquired whether that time worked for each Parent. (FF #s 11-12.) When Father did not respond, Case Manager took no further action to determine whether he could attend the meeting at the proposed date/time. (FF # 14.) Instead, Case Manager assumed Father would not attend based on history. (FF # 17.)

Mother responded to Case Manager's text and indicated she would be unlikely to attend at the proposed date and time. (FF # 12.) Mother suggested other dates and times that accommodated her work schedule. (*Id.*) Though Case Manager said she would check on other options, she never reached back out to Mother until the day before the meeting. (FF #s 12-13.) At that point, Case Manager said that the meeting would proceed as scheduled, even though Mother could not attend. (FF # 13.)

Instead of working to accommodate Parents' schedules, Case Manager offered to meet with Parents individually after the IEP Team meeting to review Student's IEP. (FF #s 13, 20.) This approach undermined the important role parents play in the IEP process. Reviewing an IEP after-the-fact does not compare with participating in the IEP development process. Student's annual review was due February 8, 2023. (FF # 8.) Therefore, the BOCES had some flexibility to be able to schedule Student's IEP Team meeting on a date that worked with Parents' schedule.

For these reasons, the SCO finds and concludes that the BOCES failed to provide Parents with proper notice of the February 2023 IEP Team meeting, resulting in a procedural violation of 34 C.F.R. § 300.322.

## **B. Parents' Absence at the IEP Team Meeting**

Parents are mandatory members of their child's IEP Team. 34 C.F.R. § 300.321(a)(1). As defined by the IDEA, "parent" includes, in part, a biological or adoptive parent, as well as "[a]n individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives." *Id.* § 300.30(a). An IEP Team meeting may be conducted without a parent if the school district "is unable to convince the parents that they should attend." *Id.* § 300.322(d). In such case, the district must maintain records demonstrating its attempts to arrange a mutually agreed on time and place, such as records of phone calls, copies of correspondence, and records of visits made to the parent's home or place of employment. *Id.*

Here, neither of Student's Parents attended the February IEP Team meeting. (FF # 16.) The BOCES did not make adequate efforts to convince Parents to attend the meeting. (See FF #s 11-15, 17.) As detailed above, the BOCES did not provide Parents with proper notice of the meeting, both in terms of adequate advance notice or scheduling the meeting at a mutually agreed on time and place. If proper notice of an IEP Team meeting was not given, the BOCES, by default, cannot meet the threshold for conducting the meeting without Parents. Though Grandmother helped care for Student, he did not live with her. (FF # 18.) Therefore, she did not qualify as a "parent" under the IDEA. Indeed, Father and Mother share joint decision-making on education issues. (FF # 4.) For these reasons, the SCO finds and concludes that the BOCES improperly conducted the IEP Team meeting without a parent in attendance, in violation of 34 C.F.R. § 300.322(d). This resulted in an additional procedural violation.

## **C. Impact of Procedural Violation**

Failure to comply with a procedural requirement of the IDEA results in substantive harm supporting compensatory remedies if the violation (1) impeded the child's right to a FAPE, (2) significantly impeded the parent's opportunity to participate in the decision-making process, or (3) caused a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); see *Knable ex rel. Knable v. Bexley City Sch. Dist.*, 238 F.3d 755, 765-66 (6th Cir. 2001).

In this case, the BOCES' failures significantly impeded Parents' opportunity to participate in the development of Student's new IEP. The BOCES made little effort to schedule the IEP Team meeting at a mutually agreeable time. (FF #s 11-15.) Even when BOCES staff knew Parents could not attend, the BOCES proceeded with the IEP Team meeting in Parents' absence. (FF #s 15, 17.) The February IEP Team meeting sought to develop an IEP that would be in effect for the next year, and Parents' participation in that process was critical. The SCO cannot overemphasize the importance of giving Parents an opportunity to participate, *even if* Parents ultimately choose not to participate. The SCO finds and concludes that the procedural violation resulted in a denial of FAPE.

**Conclusion to Allegation No. 2: The BOCES disclosed Student’s PII to parties with Mother’s consent, consistent with 34 C.F.R. §§ 300.622-623. No violation of the IDEA occurred.**

The second allegation in Father’s Complaint concerns Grandmother and Private OT’s attendance at the February 2023 IEP Team meeting. Father asserted that the BOCES disclosed Student’s PII to these attendees without Father’s consent, in violation of 34 C.F.R. §§ 300.622-623.

Under the IDEA, parents and the school district have discretion to invite individuals “who have knowledge or special expertise regarding the child” to an IEP Team meeting. 34 C.F.R. § 300.321(a)(6). A parent’s invitees are not required to be approved by the school district or by another parent. *See Oconee Cty. Sch. Dist.*, 114 LRP 37520 (GA SEA 04/30/14) (citing *Horen v. Bd. of Educ.*, 655 F. Supp 2d. 794 (N.D. Ohio 2009)) (“IDEA provides that either the parent or the school district can designate an individual with special expertise to attend the meeting at the party’s discretion, and neither party has the right ‘to veto the attendance by a person whom another party wants to have present.’”) Indeed, the IDEA’s use of the word “discretion” signals that this power does not require approval by any other participant. *See* 34 C.F.R. § 300.321(a)(6).

Separately, the IDEA requires school districts to protect the confidentiality of any personally identifiable data, information and records it collects or maintains. 34 C.F.R. §§ 300.610-627. “PII” refers to information that contains:

- (a) The name of the child, the child’s parent, or other family member;
- (b) The address of the child;
- (c) A personal identifier, such as the child’s social security number or student number;  
or
- (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

*Id.* § 300.32. Under 34 C.F.R. § 300.622(a), “[p]arental consent must be obtained before [PII] is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under [the Family Education Rights and Privacy Act (“FERPA”).” *See also CDE Parent and Child Rights in Special Education: Procedural Safeguards Notice*, p. 9.

Here, Grandmother and Private OT attended the IEP Team meeting as optional members of the IEP Team. (FF #s 16, 18.) Both individuals had “knowledge or special expertise” regarding Student, as required by 34 C.F.R. § 300.321(a)(6). Grandmother often picked Student up from School and helped him with his homework. (FF # 18.) Meanwhile, Private OT provided Student services outside of School. (*Id.*)

At the IEP Team meeting, Grandmother and Private OT undoubtedly had access to Student’s PII. When Mother, in her discretion, invited these individuals to the IEP Team meeting, she consented



to the disclosure of Student's PII to Grandmother and Private OT during the meeting. Though Father was unaware that Grandmother and Private OT would be attending the meeting (FF # 18), neither his approval of their attendance nor his consent for PII disclosure was required. Requiring Father's consent for the PII disclosure would, in essence, give Father veto power over the attendance of Mother's guests, in contradiction of 34 C.F.R. § 300.321(a)(6). The IDEA's confidentiality provisions target disclosures made by school districts and their staff. See 34 C.F.R. §§ 300.622-623. Those provisions do not seek to pit one parent against another. See *id.*

For these reasons, the SCO finds and concludes that Mother consented to the disclosure of PII to Grandmother and Private OT during the February 2023 IEP Team meeting; such disclosure was consistent with 34 C.F.R. §§ 300.622-623. No violation of the IDEA occurred.

**Systemic Nature of Violation: This investigation does not demonstrate violations that are systemic and likely to impact the future provision of services for all children with disabilities in the BOCES if not corrected.**

Pursuant to its general supervisory authority, the CDE must consider and ensure the appropriate future provision of services for all IDEA-eligible students in 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).

The BOCES' failure to provide appropriate notice of Student's IEP Team meeting was not systemic in nature. The failure was the result of several missteps made by a single staff member. That staff member did not work with Parents to find a mutually agreed on time for the meeting and inadvertently omitted Parents from the calendar invitation. If followed, the BOCES' policies ensure parents receive adequate notice of IEP Team meetings. (See FF #s 5-7.) Similarly, the BOCES' decision to conduct the IEP Team meeting in Parents' absence was made by the same staff member. Nothing in the record suggests this violation extends beyond this situation or staff member.

### **REMEDIES**

The SCO concludes that the BOCES has violated the following IDEA requirements:

- a. Failing to provide proper notice of an IEP Team meeting, in violation of 34 C.F.R. § 300.322; and
- b. Conducting an IEP Team meeting without a parent present, in violation of 34 C.F.R. §§ 300.321(a), 300.322(d).

To remedy these violations, the BOCES is ORDERED to take the following actions:

**1. Corrective Action Plan**

- a. By **Tuesday, March 12, 2024**, the BOCES shall submit to the 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 the BOCES is responsible. The CDE will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, the CDE will arrange to conduct verification activities to confirm the BOCES’ timely correction of the areas of noncompliance.

**2. Final Decision Review**

- a. BOCES Director, BOCES ESS Assistant, School Principal, and Case Manager must review this Decision and the requirements of 34 C.F.R. §§ 300.321 and 300.322. These reviews must occur no later than **Tuesday, March 19, 2024**. A signed assurance that these materials have been reviewed must be completed and provided to the CDE no later than that same day, **Tuesday, March 19, 2024**.

**3. IEP Team Meeting**

- a. The BOCES must convene Student’s IEP Team by **Tuesday, March 19, 2024**, to review Student’s IEP. The BOCES must provide Parents proper notice of the IEP Team meeting and ensure the meeting is scheduled at a mutually agreeable date and time.
- b. A copy of communications/communication log regarding scheduling the IEP Team meeting, the Notice of Meeting, signed attendance log, Student’s IEP, and notes from the IEP Team meeting must be provided to the CDE no later than **Tuesday, March 26, 2024**.
- c. If either Father or Mother does not attend the IEP Team meeting, the BOCES must provide the documentation required by 34 C.F.R. § 300.322(d) to the CDE no later than **Tuesday, March 26, 2024**.
- d. If Student’s IEP Team has already met during the 2024 calendar year to review Student’s IEP, the BOCES may provide a copy of the documentation listed in 3(b) (and, if applicable, 3(c)) above to the CDE by **Tuesday, March 19, 2024**.

- e. The CDE, in its sole discretion, will determine whether the IEP Team meeting (either completed as part of this remedy or earlier in the 2024 calendar year) complied with the requirements of this remedy. If the CDE determines that the meeting did not comply, the BOCES must reconvene the IEP Team consistent with a timeline determined by the CDE.

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

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

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

#### **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 13th day of February, 2024.



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Ashley E. Schubert  
State Complaints Officer

## APPENDIX

### Complaint, pages 1-14

#### Response, pages 1-7

- Exhibit A: IEPs
- Exhibit B: Blank
- Exhibit C: Notice of Meeting and related documents
- Exhibit D: Communication with Parent
- Exhibit E: Progress monitoring reports
- Exhibit F: Records regarding educational rights holder(s)
- Exhibit G: Policies and procedures
- Exhibit H: Correspondence
- Exhibit I: Witness list
- Exhibit J: Verification of delivery of Response
- Exhibit K: Blank
- Supplement to Exhibit A: Additional IEPs
- Supplement to Exhibit E: Progress monitoring reports
- Supplement to Exhibit G: Calendaring policy

#### Telephone Interviews

- BOCES Director of Exceptional Student Services: January 29, 2024
- BOCES ESS Assistant: January 29, 2024
- Case Manager: January 29, 2024
- Father: February 9, 2024