

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

**State-Level Complaint 2024:510
Denver Public Schools**

DECISION

INTRODUCTION

On February 5, 2024, AdvocacyDenver (“Complainant”) filed a state level complaint (“Complaint”) against Denver Public Schools (“District”). The Complaint was filed on behalf of a student identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ (“Student A”) participating in the affective needs program (“AN Program”) at a District elementary school (“School”), as well as all other students participating in the AN Program (collectively, “Students”).

The State Complaints Officer (“SCO”) determined that the Complaint identified one 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.

The SCO extended the 60-day investigation timeline once due to exceptional circumstances, consistent with 34 C.F.R. § 300.152(b)(1).

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 February 5, 2023 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 District denied Student a Free Appropriate Public Education (“FAPE”) because District:

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.

1. Failed to implement the IEPs of Students from February 5, 2023 to present in violation of 34 C.F.R. § 300.323, specifically by:
 - a. Failing to provide Students with the specialized instruction² required by Students' IEPs; and
 - b. Failing to provide Students with the mental health and psychological services as required by Students' IEPs.

FINDINGS OF FACT

After thorough and careful analysis of the entire Record,³ the SCO makes the following FINDINGS:

A. Background

1. Student A is an eight-year-old second grader at School, a District elementary school. *Exhibit A*, p. 3. He qualifies for special education under the disability categories of Autism Spectrum Disorders, Serious Emotional Disability, and Speech or Language impairment. *Id.*
2. Student A is smart and has a good sense of humor. *Interviews with Student A's parent ("Parent"), current AN Program special education teacher ("Special Education Teacher 2"), AN Program paraprofessional ("Paraprofessional") and substitute AN Program teacher ("Substitute Teacher").* He has a keen interest in technology, specifically as it pertains to the safety features of vehicles. *Interviews with Parent, Special Education Teacher 2, and School's current social worker ("Social Worker 5").*
3. This investigation involved implementation of specialized instruction and mental health services from Student A's IEP dated October 3, 2023, as well as the implementation of similar services from the IEPs of the other Students participating in the AN Program at School. *Exhibit A*, p. 3; *Complaint*.

B. The AN Program

4. School hosts one of District's affective needs programs, serving students in kindergarten through second grade with social, emotional, and behavioral struggles. *Interviews with School Principal ("Principal"), Special Education Teacher 2, and District Special Education Manager ("Special Education Manager").*
5. An affective needs program is one of District's center-based instructional programs, educational environments where Students from throughout the District are assigned

² For purposes of this investigation, "specialized instruction" is defined as direct special education in mathematics, reading, writing, social-emotional skills, and executive functioning skills.

³ The appendix, attached and incorporated by reference, details the entire Record.

on the basis of needs that individual schools are less well equipped to serve. Affective needs programs serve students with social, emotional, and behavioral needs.

6. District identified seven Students, Students A through G, who participated in the AN Program during the 2023-2024 academic year. *Exhibit P*, pp. 4-6.
7. The IEPs for Students indicated that they would receive specialized instruction within the AN Program. *Exhibit A; Exhibit R*.
8. At the start of the 2023-2024 academic year, the AN Program was staffed by a special education teacher (“Special Education Teacher 1”) and several paraprofessionals. *Interviews with Principal, District’s Special Education Instructional Specialist (“SEIS”), and Paraprofessional*. The special education teacher would lead instruction, and the paraprofessionals would provide instructional support to Students. *Interview with Paraprofessional*.

C. Staffing of the AN Program

9. Complainant’s concern is that a lapse in the staffing of the AN Program led to a failure to deliver specialized instruction to Students. *Complaint*, p. 4.
10. Special Education Teacher 1 was hired by School on January 30, 2023, and oversaw the AN Program’s classroom (“AN Classroom”) until his resignation on October 31, 2023. *Exhibit T*.
11. In October 2023, Special Education Teacher 1 informed Principal that he would be leaving his position, providing two weeks’ notice. *Interview with Principal*. He left his position on October 31, 2023. *Response*, p. 3. During the time between giving notice and the end of his employment, Special Education Teacher 1 used accrued leave time. *Interview with Principal*.
12. After Special Education Teacher 1 gave notice, Principal reached out to Substitute Teacher, a general education teacher who had retired in June 2023 after 31 years teaching and five years at School, to cover the AN Program. *Interviews with Principal and Substitute Teacher*. Principal stated that she felt that Substitute Teacher was a good choice for the position because she had built a strong classroom culture during her previous employment at School. *Interview with Principal*.
13. Although Substitute Teacher had some experience working with some of the students in the AN Program from her previous teaching experience at School, she was not licensed as a special education instructor. *Interview with Substitute Teacher*.
14. Substitute Teacher’s understanding was that she would be providing temporary coverage to the AN Program while the position for a new special education teacher was posted. *Id.* She was in this position until January 24, 2024, the start date of

Special Education Teacher 2. *Interviews with Substitute Teacher, Special Education Teacher 2, and Principal.*

15. Before starting this position, Substitute Teacher received training on safety protocols related to Students in the AN Program. *Id.* She was also provided copies of Students' IEPs. *Id.*
16. During the time that Substitute Teacher was covering the AN Program, Substitute Teacher created lesson plans based on the general education curriculum and developed a schedule for the day. *Interviews with Substitute Teacher and Paraprofessional.* Substitute Teacher led whole-group instruction while paraprofessionals would support by helping to manage student behavior. *Id.*

D. District Support and Supervision

17. In late October, SEIS, a District employee, learned that Special Education Teacher 1 would be leaving School, and that the long-term substitute hired by School was not a licensed special education instructor. *Interview with SEIS.*
18. SEIS worked with Principal to establish a job posting for the vacant special educator position. *Interviews with SEIS and Principal.*
19. On November 17, 2023, Principal sent an email to District's Director of Special Education ("Special Education Director"), indicating that School had not yet succeeded in hiring a new special education teacher, and requesting that District approve the hiring of a contract special education instructor to cover School's special education classroom. *CDE Exhibit 3.*
20. Principal stated that this contract position was not approved by District. *Interview with Principal.* However, in an email from Special Education Manager to a member of District's talent acquisition team dated December 4, 2023, Special Education Manager states that Special Education Director "gave the go ahead for the [School] team to start looking at contractors." *CDE Exhibit 1.* Principal was copied on this e-mail. *Id.*
21. Special Education Manager stated that according to District policy, the hiring of personnel takes place at the building level: once the District has approved the hiring of a contractor, the rest of the hiring process should have been overseen by Principal. *Interview with Special Education Manager.*
22. On December 15, 2023, Principal met with Special Education Director to discuss the need for District support for staff in the AN Program. *CDE Exhibit 3.* During that meeting, she also informed Special Education Director that she had invited a former District SEIS ("Consultant") to provide guidance. *Id.* According to Principal, Special Education Director advised Principal that she should not provide Consultant access to the AN Program and should discontinue discussion of the AN Program with Consultant. *CDE Exhibit 4; CDE Exhibit 5; Interview with Special Education Director.*

23. Principal's records indicate that Consultant visited School three times, on November 13, 2023, November 27, 2023, and December 8, 2023, and provided guidance on what items should be purchased for the AN Program and worked with the AN Program paraprofessionals. *CDE Exhibit 4*. Consultant was not present in the AN Program at any time in which students were present. *Complaint*, p. 4; *CDE Exhibit 4*.
24. On January 3, 2024, a District center-based instructional specialist ("CBIS") visited the AN Classroom to provide support to Substitute Teacher and the other AN Program staff. *Interview with Special Education Director*, *CDE Exhibit 2*.
25. Special Education Director described CBIS's visit in a January 5, 2024 email:
- "On Wednesday 1/3, our Center Based Instructional Specialists (CBIS) went to [School] for their standing meeting with the team. When she entered the [AN Program] all of the furniture was gone. She asked the staff where it was and a response from one of the paraprofessionals was: 'they don't deserve it, they don't deserve anything.' Photo below. In speaking more to the staff, the CBIS learned that the staff was suggested to do so by their contractor who was hired by the school leader – [Consultant] - who was previously an SEIS in our department and is no longer employed on our team. In speaking with the school leader [Principal] last month, I voiced my concerns directly to her about bringing on [Consultant] as a contractor."
- CDE Exhibit 2*. With this email, Special Education Director attached a photograph of the AN Classroom, which showed that all furniture had been removed. *Id.*
26. On January 8, 2024, Special Education Director met with Consultant to discuss her role at School. *Interview with Special Education Director*.
27. The same day, he also met with Principal, and the two visited School's AN Program together. *Id.* He instructed Principal to ensure that the classroom's furniture was returned. *Id.* Principal sent a picture to Special Education Director later that day confirming that the furniture was back in place. *Id.*
28. On January 9, 2024, six days after District observed the state of the AN Program, Student E was assigned to the AN Program at School. *Exhibit R-7*, p. 1. He began attending the next day. *Id.*
29. On January 12, 2024, District organized a meeting at School to create a monitoring plan to ensure that the AN Program received the support it needed. *Interview with Special Education Director*. This monitoring plan included additional training for staff supporting the AN Program, and the presence of a District CBIS for one week to observe the AN Program and coach staff. *Id.* Special Education Director stated that this level of involvement was extremely unusual, and rarely took place without the specific request of the building's principal. *Id.*

E. Hiring of Special Education Teacher 2

30. A District social worker who began working at School at the start of the spring semester in January (“Social Worker 4”) observed substantial concerns in the AN Program. *Interview with Social Worker 4*. She noted that the classroom environment was highly unstructured, leading to elopement and significant physical escalation from Students. *Id.* She stated that the classroom’s paraprofessionals lacked support or direction, and that due to the near-constant need for de-escalation, little to no instruction was taking place. *Id.*
31. On January 24, 2024, Special Education Teacher 2, a licensed special education instructor, began her employment at School, taking over AN Program. *Interview with Special Education Teacher 2*.
32. Special Education Teacher 2 stated that when she began working with the AN Program’s students, her first priority was to establish systems and routines to help create a more predictable environment. *Id.* Over her first week in the classroom, she reviewed Students’ IEPs to determine needs, and established classroom rules, behavioral expectations while in the hallways, and visual schedules. *Id.*
33. In addition, Special Education Teacher 2 developed differentiated specialized instruction for each Student, and worked to maximize the amount of time each Student could push into general education classes. *Id.*
34. Special Education Teacher 2 had a standing weekly meeting with the District CBIS to provide updates on the state of the classroom and collaborate on next steps. *Id.*
35. Parent stated that once Special Education Teacher 2 started, Student A’s school experience sharply improved due to focused instruction and increased participation in general education. *Interview with Parent*.
36. Paraprofessional stated that during the months in which there was not a special education teacher, it was difficult for Students to access general education classes due to behavioral disruptions. *Interview with Paraprofessional*. Since Special Education Teacher 2’s hiring, several Students, including Student A and Student G, have been consistently able to successfully push into the general education environment, and Student B demonstrated enough progress that she was placed out of the AN Program entirely. *Id.*

F. Implementation of Specialized Instruction

37. Special Education Teacher 1’s last day of formal employment at School was October 31, 2023. *Exhibit T*. Principal reports that, due to accrued leave, he did not work in the AN Program for the two weeks prior to the formal end of his employment. *Interview*

with Principal. Based upon these facts, the SCO finds that Special Education Teacher 1's last day of in-classroom instruction was October 17, 2024.

38. Special Education Teacher 2 began working in the AN Program on January 24, 2024. *Exhibit T*.
39. During the time between Special Education Teacher 1's last day in the classroom and Special Education Teacher 2's first day in the classroom, no licensed special education instructor was present in the classroom. *Interview with Substitute Teacher*.
40. According to the District calendar, during that period, School was in session for 52 days of instruction. *Exhibit J*, p. 2.
41. Accordingly, the SCO finds that for 52 days of instruction, District did not provide specialized instruction to the seven Students, A-G, who participated in the AN Program at School. *Exhibit P*, pp. 4-6.

Student A

42. Student A participated in the AN Program throughout the 2023-2024 academic year. *Interview with Parent; Exhibit P*, pp. 4-6.
43. Student A's IEP requires 1,600 minutes of direct specialized instruction per week, which is equivalent to 320 minutes per day. *CDE Exhibit 5*, p. 21.
44. Based upon these facts, the SCO finds that District failed to implement 320 minutes of direct specialized instruction on 52 instructional days, totaling a failure to implement 16,640 minutes of direct specialized instruction.

Student B

45. Student B participated in the AN Program from October 18, 2023 through January 24, 2024. *Exhibit P*, pp. 4-6; *Exhibit R-2*.
46. Student B's IEP requires 240 minutes of direct specialized instruction per day. *Exhibit R-2*, p. 59.
47. Based upon these facts, the SCO finds that District failed to implement 240 minutes of direct specialized instruction on 52 instructional days, totaling a failure to implement 12,480 minutes of direct specialized instruction.

Student C

48. Student C participated in the AN Program throughout the 2023-2024 academic year. *Exhibit P*, pp. 4-6.

49. Between October 17, 2023 and November 9, 2023, Student C's IEP required 1,000 minutes of direct specialized instruction per week, which is equivalent to 200 minutes per day. *Exhibit R-4*, p. 15. Between November 10, 2023 and January 24, 2024, Student C's IEP required 240 minutes of direct specialized instruction per day. *Id.* at p. 40.
50. Of the 52 instructional days on which there was not a licensed special education instructor in the AN Program, 18 instructional days took place before November 10, 2023, and 34 instructional days took place on or after November 10, 2023. *Exhibit J*, p. 2.
51. Based upon these facts, the SCO finds that on or before November 9, 2023, District failed to implement 200 minutes of direct specialized instruction on 18 instructional days, totaling a failure to implement 3,600 minutes of direct specialized instruction. The SCO further finds that on or after November 10, 2023, District failed to implement 240 minutes of direct specialized instruction on 34 instructional days, totaling a failure to implement 8,160 minutes of direct specialized instruction. In sum, SCO finds that the District failed to implement a total of 11,760 minutes of direct specialized instruction.

Student D

52. Student D participated in the AN Program throughout the 2023-2024 academic year. *Exhibit P*, pp. 4-6.
53. Student D's IEP requires 1,500 minutes of direct specialized instruction per week, which is equivalent to 300 minutes per day. *Exhibit R-5*, p. 81.
54. Based upon these facts, the SCO finds that District failed to implement 300 minutes of direct specialized instruction on 52 instructional days, totaling a failure to implement 15,600 minutes of direct specialized instruction.

Student E

55. Student E was assigned to the AN Program on January 9, 2024, and began attending the next day. *Exhibit R-7*, p. 1.
56. There were 9 instructional days between Student E's enrollment in the AN Program and Special Education Teacher 2's hiring. *Exhibit J*, p. 2.
57. Student E's IEP requires 1,850 minutes of direct specialized instruction per week, which is equivalent to 370 minutes per day. *Exhibit R-7*, p. 18.
58. Based upon these facts, the SCO finds that District failed to implement 370 minutes of direct specialized instruction on 9 instructional days, totaling a failure to implement 3,330 minutes of direct specialized instruction.

Student F

59. Student F participated in the AN Program throughout the 2023-2024 academic year. *Exhibit P*, pp. 4-6; *Exhibit R-6*, p. 1.
60. Student F's IEP requires 860 minutes of direct specialized instruction per month. *CDE Exhibit 5*, p. 21. During the nine months of the 2023-2024 academic year from September 2023 through May 2024, there were an average of approximately 18 instructional days per month. See *Exhibit J*, p. 2. Accordingly, the SCO finds that 860 minutes per month is equivalent to 48 minutes per day.
61. Based upon these facts, the SCO finds that District failed to implement 48 minutes of direct specialized instruction on 52 instructional days, totaling a failure to implement 2,496 minutes of direct specialized instruction.

Student G

62. Student G participated in the AN Program throughout the 2023-2024 academic year. *Exhibit P*, pp. 4-6.
63. Student G's IEP requires 1,300 minutes of direct specialized instruction per week, which is equivalent to 260 minutes per day. *Exhibit R-3*, p. 57.
64. Based upon these facts, the SCO finds that District failed to implement 260 minutes of direct specialized instruction on 52 instructional days, totaling a failure to implement 13,520 minutes of direct specialized instruction.

G. District's Response to the AN Program Staffing Issue

65. In District's Response to the Complaint, District conceded that it failed to implement Students' IEPs with respect to specialized instruction during the period from November 1, 2023 to January 24, 2024. *Response*, p. 3.
66. District stated that it is undertaking a compensatory services analysis to determine the educational losses suffered by Students due to the AN Program staffing issue. *Id.* This analysis will follow the procedures outlined in a District standard operating procedure document entitled "Process for Determining Compensatory Services." *Interview with Special Education Manager, CDE Exhibit 6.*
67. As of April 22, 2024, District has not completed this process for any of the affected Students, nor has it made offers of compensatory services to their families. *CDE Exhibit 8.*
68. District also stated that, per the terms of its Corrective Action Plan in State Complaint Decision 2023:570, involving another special education instructor staffing issue, it is in the process of developing and submitting for CDE approval "a procedure for tracking

special education gaps, the filling of special educator staffing gaps and the provision of those identified compensatory services due to special educator staffing gaps.” *Response*, p. 3.

69. District stated in its Response that this proposal would be submitted to CDE in March 2024. *Id.* Due to the complexity of this undertaking, CDE has granted District additional time to submit its proposal, and as of the date of this Decision, District’s proposal is due in June 2024, subsequent to the date of this Decision.

H. Mental Health Staffing at School

70. Complainant’s concern is that inconsistency in mental health staffing led to a failure to provide required mental health services to Students in the AN Program. *Complaint*, p. 4.

71. For the entirety of the 2022-2023 academic year, School’s AN Program was served by a School social worker (“Social Worker 1”). *Exhibit T*. Over the 2023 summer break, Social Worker 1 left for another position. *Interview with Principal*.

72. At the start of the 2023-2024 academic year, the AN Program was served by another School social worker (“Social Worker 2”). Social Worker 2 worked at School from August 14, 2023 to September 28, 2023, at which point she left for another position. *Exhibit T*.

73. On September 28, 2023, School hired a mental health contractor (“Social Worker 3”) to provide services to Students in the AN Program. *Exhibit T; Interview with Principal*. Social Worker 3’s contract ran through the end of the semester in December. *Interview with Principal*. Principal reached out to District to ask for assistance in finding a new social worker. *Id.*

74. Upon becoming aware that Social Worker 3 would not be working at School in January, Special Education Manager assigned a District “float” social worker (“Social Worker 4”) to serve School on a temporary basis while School sought a new contract social worker. *Interview with Special Education Manager*.

75. School identified and hired Social Worker 5 in January 2024, and she started work at School on February 1, 2024. *Exhibit T; Interview with Social Worker 5*. Social Worker 4 continued work at School for one week after the start of Social Worker 5’s employment. *Interviews with Social Workers 4 and 5*.

76. Social Worker 5 is employed at School as of the date of this Decision. *Interview with Social Worker 5*.

I. Implementation of Mental Health Services

77. Social Workers 4 and 5 were provided access to the IEPs of the Students in the AN Program at the start of their work at School. *Interviews with Social Workers 4 and 5.*
78. Social Workers 4 and 5 credibly described their practice in providing mental health services as including teaching Students social emotional skills, playing out social scenarios to practice those skills, helping Students to de-escalate and engage in restorative practices when behavioral incidents occur, and supporting Students when they push into the general education classroom. *Id.*
79. Social Workers 4 and 5 stated that when they do provide mental health services to Students in the AN Program, they typically record those services, per District practice, into service logs. *Id.* They concede, however, that services such as de-escalation of high-intensity behavior incidents are occasionally provided to Students without being recorded in the mental health progress notes. *Id.*
80. Social Worker 4 specifically recounted that during her time serving the AN Program prior to the hire of Special Education Teacher 2, the AN Program Students were frequently dysregulated, and required near-constant intervention from Social Worker 4. *Interview with Social Worker 4.* She stated that while these interventions constituted direct mental health services, little if any of it was captured in progress notes due to the non-routine nature of the interventions. *Id.*
81. District has provided mental health progress notes for Students. *Exhibit F*, pp. 73-79; *Exhibit S*; *CDE Exhibit 7.*
82. In aggregate, the SCO finds that Students' IEPs required the provision of 13,453 direct mental health service minutes. *Id.* In aggregate, the SCO finds that Students' mental health progress notes document 13,316 direct mental health service minutes provided to Students in the AN Program. *Id.*
83. Based on these facts, the SCO finds that in aggregate, District documented direct mental health service minutes equaling approximately 99% of the number of minutes required by Students' IEPs.

Student A

84. Student A's IEP requires 90 minutes per month of direct social work services. *CDE Exhibit 5*, p. 21.
85. Student A's mental health progress notes indicate that from February 2023 through the filing of the Complaint in February 2024, Student A received 1,670 minutes of

direct social work services, more than the 990 minutes required by the IEP during these eleven months. *Exhibit F*, pp. 76-79; *CDE Exhibit 7*, p. 1.

86. Based on these facts, the SCO finds that District provided social work services to Student A consistent with the IEP.

Student B

87. Student B's IEP required 45 minutes per week of direct social work services. *Exhibit R-2*, p. 59.

88. Student B's mental health progress notes indicate that from February 5, 2023 to the end of Student B's enrollment at School, Student B received 2,090 minutes of direct social work services. *Exhibit S*, pp. 94-99.

89. During that period, School was open for 167 instructional days, or 33.4 instructional weeks, which would have required 1,503 minutes of direct social work services. See *Exhibit J*, pp. 1-2.

90. Based on these facts, the SCO finds that District provided social work services to Student B consistent with the IEP.

Student C

91. Student C's IEP required 240 minutes per month of direct social work services. *Exhibit R-4*, p. 40.

92. Student C's mental health progress notes indicate that from February 2023 to February 2024, Student C received 2,330 mental health service minutes out of the 3,120 required minutes during that period. *Exhibit S*, pp. 26-30.

93. Based on these facts, the SCO finds that the mental health progress notes failed to document 790 minutes of direct social work services to Student C.

94. The SCO finds, based upon the credible statements of Social Workers 4 and 5 combined with a careful review of the Record, that social workers in the AN program provided Student C a substantial number of direct service minutes outside of those documented in the mental health progress notes.

95. Based on these facts, the SCO finds that District provided social work services to Student C consistent with the IEP.

Student D

96. Student D's IEP required 360 minutes per month of direct social work services. *Exhibit R-5*, p. 24.
97. Student D's mental health progress notes indicate that from the start of Student D's enrollment at School in October 2023 to February 2024, Student D received 1,005 mental health service minutes out of the 1,800 required minutes during that period. *Exhibit S*, pp. 48-49.
98. Based on these facts, the SCO finds that District failed to document 795 minutes of direct mental health services to Student D.
99. The SCO finds, based upon the credible statements of Social Workers 4 and 5 combined with a careful review of the Record, that social workers in the AN program provided Student D a substantial number of direct service minutes outside of those documented in the mental health progress notes.
100. Based on these facts, the SCO finds that District provided social work services to Student D consistent with the IEP.

Student E

101. Student E's IEP required 440 minutes per month of direct social work services. *Exhibit R-7*, p. 18.
102. Student E's mental health progress notes indicate that from January 2024 (the start of Student E's participation in School's AN Program) to February 2024, Student E received 305 minutes of direct social work services, less than the 880 that Student E would have been entitled to over that span. *CDE Exhibit 7*, pp. 9-10.
103. Based on these facts, the SCO finds that District failed to document 575 minutes of direct social work services to Student E.
104. The SCO finds, based upon the credible statements of Social Workers 4 and 5 combined with a careful review of the Record, that social workers in the AN program provided Student E a substantial number of direct service minutes outside of those documented in the mental health progress notes.
105. Based on these facts, the SCO finds that District provided social work services to Student E consistent with the IEP.

Student F

106. Student F's IEP required 180 minutes per month of direct social work services and 180 minutes per month of direct psychological services. *Exhibit R-6*, p. 12.
107. Student F's mental health progress notes indicate that from his enrollment at School in August 2023 to February 2024, Student F received 4,221 minutes of mental health services, more than the 2,520 required minutes over those seven months. *Exhibit S*, pp. 57-63.
108. Based on these facts, the SCO finds that District provided mental health services to Student F consistent with the IEP.

Student G

109. Student G's IEP required 240 minutes per month of direct social work services. *Exhibit R-3*, p. 57.
110. Student G's mental health progress notes indicate that from February 2023 to February 2024, Student G received 1,695 minutes of direct social work services, less than the 2,640 required minutes over those eleven months. *Exhibit S*, pp. 1-6; CDE Exhibit 7, p. 2.
111. Based on these facts, the SCO finds that District failed to document 945 minutes of direct social work services to Student G.
112. The SCO finds, based upon the credible statements of Social Workers 4 and 5 combined with a careful review of the Record, that social workers in the AN program provided Student G a substantial number of direct service minutes outside of those documented in the mental health progress notes.
113. Based on these facts, the SCO finds that District provided social work services to Student G consistent with the IEP.

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 implement the specialized instruction services required by Students' IEPs between October 17, 2023 and January 23, 2024, in violation of 34 C.F.R. § 300.323. This violation resulted in a denial of FAPE.

Complainant's concern is that Students did not receive the specialized instruction and related services required by their IEPs due to staffing issues involving the AN Program. (FF #s 9, 70).

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)). A student's IEP must be implemented in its entirety. 34 C.F.R. § 300.323(c)(2).

A school district must ensure that "as soon as possible following the development of the IEP, special education and related services are made available to a child in accordance with the child's IEP." *Id.* at § 300.323(c)(2).

The IDEA does not excuse a district's failure to implement an IEP based on staff shortages. *E.g.*, *El Paso County School District 20*, 122 LRP 39732 (SEA CO 6/5/22) (finding an ongoing obligation to provide FAPE pursuant to a student's IEP during a staffing shortage); *See also In re: Student with a Disability*, 121 LRP 38674 (SEA KS 10/20/21) (finding an ongoing obligation to provide FAPE pursuant to a student's IEP during a staffing shortage); *See also CDE Decisions 2023:570* (January 2024); *2023:613* (March 2024).

To satisfy its implementation obligation, a school district must ensure that each teacher and related services provider is informed of "his or her specific responsibilities related to implementing the child's IEP," as well as the specific "accommodations, modifications, and supports that must be provided for the child in accordance with the IEP." 34 C.F.R. § 300.323(d).

A. IEP Accessibility

The SCO must first determine whether District satisfied its obligation under 34 C.F.R. § 300.323(d). There is no indication from the Record that the providers at School were unaware of their responsibilities under Students' IEPs. The special education teachers had access to their Students' IEPs and were aware of their needs and the services they should have been receiving. (FF #s 15, 32). The social workers were similarly aware of their responsibilities. (FF #s 77-79). Thus, the SCO finds and concludes that District complied with the requirements of 34 C.F.R. § 300.323(d).

B. Implementation of Specialized Instruction

Here, during the period from October 17, 2023 through January 23, 2024, School lacked a licensed special education instructor serving the AN Program. (FF #s 11, 14). In place of a licensed special education instructor, School enlisted Substitute Teacher, a former

general education teacher, who oversaw the AN Classroom for more than three months. (FF #s 12-14).

Due to her lack of licensure, Substitute Teacher was unable to provide any of the specialized instruction services detailed by the IEP of any of the seven Students in the classroom during that period. (FF #s 39, 41).

Accordingly, the SCO finds and concludes that District failed to provide specialized instruction to Students A-G, in violation of 34 C.F.R. § 300.323(d).

C. Implementation of Mental Health Services

School also experienced staffing turmoil with respect to mental health providers during the 2023-2024 academic year, employing five different social workers over the course of the year. (FF #s 70-76). However, through a combination of the use of contract positions and use of a District “float” social worker, Students had access to a provider throughout the year. (FF #s 73-76).

Service logs kept by these providers indicate that even during times when there were frequent changes in staff, Students received mental health services. (FF #s 81-82). Based on both the documentation of mental health service minutes in service logs, as well as the credible testimony of Social Workers regarding the services they have provided to Students, the SCO finds that mental health services were provided to Students as required by their IEPs. (FF #s 86, 90, 95, 100, 107, 108, 113).

D. Materiality of Failure to Implement

Where the definition of a FAPE specifically references delivery of special education and related services consistent with an IEP, the failure to implement an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.19. However, not every deviation from an IEP’s requirements results in a denial of a FAPE. *See, e.g., L.C. and K.C. v. Utah State Bd. of Educ.*, 125 Fed. App’x 252, 260 (10th Cir. 2005) (holding that minor deviations from the IEP’s requirements which did not impact the student’s ability to benefit from the special education program did not amount to a “clear failure” of the IEP); *T.M. v. Dist. of Columbia*, 64 IDELR 197 (D.D.C. 2014) (finding “short gaps” in a child’s services did not amount to a material failure to provide related services).

Thus, a “finding that a school district has failed to implement a requirement of a child’s IEP does not end the inquiry.” *In re: Student with a Disability*, 118 LRP 28092 (SEA CO 5/4/18). Instead, “the SCO must also determine whether the failure was material.” *Id.* Courts will consider a case’s individual circumstances to determine if it will “constitute a material failure of implementing the IEP.” *A.P. v. Woodstock Bd. of Educ.*, 370 Fed. App’x 202, 205 (2d Cir. 2010).

The omission of a “material,” “essential,” or “significant” provision of a student’s IEP amounts to a denial of a FAPE. *See, e.g., Van Duyn ex rel. Van Duyn v. Baker Sch. Dist.*

5J, 502 F.3d 811, 822 (9th Cir. 2007) (concluding consistent with “sister courts . . . that a material failure to implement an IEP violates the IDEA”); *Neosho R-V Sch. Dist. v. Clark*, 315 F.3d 1022, 1027 (8th Cir. 2003) (holding that failure to implement an “essential element of the IEP” denies a FAPE); *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000) (ruling that failure to implement the “significant provisions of the IEP” denies a FAPE).

“A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child’s IEP.” *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist.* 5J, 502 F.3d 811, 822 (9th Cir. 2007). The materiality standard “does not require that the child suffer demonstrable educational harm in order to prevail. However, the child’s educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided.” *Id.*

Here, no specialized instruction was provided to Students for a period spanning more than three months. (FF #s 37-38, 41). The provision of specialized instruction is an “essential element of the IEP.” See *Neosho R-V Sch. Dist.*, 315 F.3d at 1027. Moreover, a three-month period during which Students received zero of their required 75,826 service minutes is far “more than a minor discrepancy” from the requirements of the IEPs. *Id.*

Accordingly, the SCO finds and concludes that the District’s failure to implement Students’ specialized instruction services from October 17, 2023 through January 23, 2024 was material and constituted a denial of FAPE.

E. Compensatory Services

Compensatory education is an equitable remedy intended to place a student in the same position he would have been in, if not for the violation. *Reid v. Dist. of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005). Compensatory education need not be an “hour-for-hour calculation.” *Colo. Dep’t of Ed.*, 118 LRP 43765 (SEA CO 6/22/18). The guide for any compensatory award should be the stated purposes of the IDEA, which include providing children with disabilities a FAPE that meets the particular needs of the child, and ensuring children receive the services to which they are entitled. *Ferren C. v. School District of Philadelphia*, 612 F.3d 712, 717-18 (3d Cir. 2010).

Here, the SCO must determine whether an award of compensatory services is necessary to place Students A through G in the same position they would have been in if not for the violation. With respect to Student A, as well as Students C through G, their IEP teams have determined that they would benefit from specialized instruction in an affective needs program. During the three-month period in which there was not a special education instructor here, District failed to provide any of that instruction. The SCO finds and concludes that compensatory education is necessary to restore Student A and Students C through G to the position they would be in had the violation not occurred.

By contrast, Student B's IEP team has determined that she no longer would benefit from participation in an affective needs program. Although Student B, like the other Students, was denied the specialized instruction required in the IEP at the time of the staffing lapse, Student B made progress and is now in a position where an order of additional specialized instruction is not necessary to place Student B in the same position if not for the violation. Accordingly, the SCO finds and concludes that compensatory education is not appropriate for Student B.

Here, District has already recognized the need for compensatory education services for Students, undertaking a process to identify and offer those services accordingly. (FF # 66). That process, however, remains ongoing, leaving the SCO unable to evaluate the adequacy of those offers to remedy the violations outlined in this Decision. (FF # 67).

Therefore, the SCO has outlined the parameters to which a District offer of compensatory services must, at minimum, adhere in the Remedies Section of this Decision.

Systemic IDEA Violations: This investigation demonstrates violations that are systemic and will likely impact the future provision of services for children with disabilities in the District if not corrected.

Pursuant to its general supervisory authority, CDE must 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 the States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

Here, the Record indicates that District's violation is systemic in nature. The failure to implement Students' specialized instruction was a direct result of District's failure to ensure that the AN Program was staffed by a licensed special education instructor. Unfortunately, difficulties with special education staffing are not limited to any one school building, or even any school district or state.

The SCO recognizes the staffing shortage here may have been out of District's control, and that District undertook proactive measures to address its impact. District conceded its failure to implement and has already begun the process to determine and offer compensatory education services to Students. (FF #s 65-66). District also provided support to School in several ways during its staffing difficulties. A District SEIS worked with Principal to seek a new special education teacher, and to gain approval to hire a contract special education teacher on a temporary basis. (FF #s 18-19). Upon learning of the substantial concerns in the AN Classroom on January 3, 2024, District undertook direct involvement and committed its staff to the building to monitor the classroom and coach staff. (FF # 29). With respect to the mental health services, District ensured

continuity of staffing by providing contract and “float” social workers to serve Students. (FF #s 73-76).

Nevertheless, although District’s SEIS was aware of the decision to staff the AN Classroom with a teacher who lacked licensure in special education in October, District did not undertake significant intervention at School until January. (FF # 17, 24-29). When Principal failed to act on District’s approval of a contract special education teacher, there is no indication in the Record that District staff followed up on Principal’s failure to act. (FF # 21). Finally, and perhaps most concerningly, District assigned Student E to School’s AN Classroom on January 9, 2024, after having been made aware of the state of the classroom on January 3, 2024. (FF # 28). Thus, the circumstances that led to this violation are likely to recur and impact other students with disabilities in the District without corrective action.

CDE recently ordered District to create “a procedure for tracking special education gaps, the filling of special educator staffing gaps and the provision of those identified compensatory services due to special educator staffing gaps” as state complaint corrective action. (FF # 68). This procedure will be submitted for CDE approval after this Decision issues, and as with District’s ongoing efforts to determine compensatory education, the CDE is unable to evaluate the sufficiency of this procedure. (FF # 69). Since this investigation demonstrates the need for such a procedure, the SCO has ordered the corrective action described in the Remedies Section of this Decision.

REMEDIES

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

- a. Failing to implement Students’ IEPs by failing to provide them with required specialized instruction and related services required by those IEPs, in violation of 34 C.F.R. § 300.323.

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

1. Corrective Action Plan

- a. By **Monday, June 3, 2024**, District shall submit to the CDE a corrective action plan (“CAP”) that adequately addresses the violation noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom District 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 District’s timely correction of the areas of noncompliance.

2. Final Decision Review

- a. The individuals in the following roles must review this decision no later than **Monday, June 3, 2024**:
 1. Executive Director of Exceptional Student Services
 2. Director of Special Education
 3. Special Education Compliance Manager
 4. All Special Education Managers
 5. All District SEISes and SBISes
 6. District Director of Human Resources
 7. School Principal
- b. If the District no longer has any of these roles, District may substitute the individual occupying the role or roles covering the same responsibilities.
- c. A signed assurance that these materials have been reviewed must be completed and provided to CDE no later than **Monday, June 10, 2024**.

3. Procedures

- a. By **Monday, July 1, 2024**, the District must submit a written procedure or guidance to ensure compliance with 34 C.F.R. § 300.323 across staff vacancies involving any School or District staff members responsible for delivery of specialized instruction or related services under an IEP. At a minimum, the procedure must offer clear guidance on the following:
 1. Which centralized District employee or team of employees (“Monitoring Team”) will be responsible for monitoring staffing gaps among staff members responsible for delivery of specialized instruction or related services under an IEP (hereafter, “responsible staff member”);
 2. How Monitoring Team will be notified whenever a responsible staff member in the District—including charter schools—ceases providing special education or related services for any reason, including taking leave, for longer than eleven consecutive school days, whether or not coverage is provided for that staff member;

3. How the District will ensure that schools, including charter schools, comply with this notification requirement, such as by conducting a periodic audit of special education teacher FTEs across the District and comparing the results with Monitoring Team's records;
4. How Monitoring Team will receive accurate information regarding the identities of the students who received special education from the responsible staff member;
5. How Monitoring Team will receive accurate information regarding the subject matter, setting, and amount of special education or related services provided by the responsible staff member to each identified student;
6. How Monitoring Team will be notified of any coverage provided by the school for the departed teacher, such that this notification will include each coverage teacher's identity, licensure, and credentials; the identities of the students taught by that coverage teacher; the subject matter, setting, and amount of specialized instruction and/or related services provided by that coverage staff member to each identified student; and the beginning and end dates of the coverage staff member's provision of specialized instruction and/or related services to the responsible staff member's students;
7. How Monitoring Team will be notified when a resolution for the responsible staff member's absence is implemented, such as the return of that responsible staff member, the hiring of a new responsible staff member, or the permanent reallocation of the responsible staff member's students' services to other staff members;
8. How Monitoring Team will ensure that the resolution complies with the ECEA and the IDEA, including compliance with licensure and credential requirements and the requirement that each student's IEP accurately reflect the student's education, services, and placement (including least restrictive environment) at all times;
9. How Monitoring Team will ensure that, following resolution of the responsible staff member's absence, compensatory services are determined for each of the departed teacher's students in accordance with the District's Process for Determining Compensatory Services;
10. How Monitoring Team will track and ensure the provision of the compensatory services, similar to CDE's requirement for monthly

updates from school districts regarding their provision of compensatory services pursuant to state complaint decisions; and

11. How Monitoring Team will monitor the assignment of new students to an absent responsible staff member's caseload.
 - b. District may, at its discretion, address staffing issues pertaining to special education teachers and those pertaining to related service providers in separate sets of procedures.
 - c. District can submit existing procedure(s) that meet these requirements, including procedure(s) submitted in response to Remedies imposed by other state complaint decisions, but they must be submitted to CDE Special Education Monitoring and Technical Assistance Consultant for review and approval prior to being finalized.
 - d. By **Monday, July 15, 2024**, CDE will approve the District's draft procedures, approve them contingent upon the District's adopting CDE's revisions, or reject the procedures with guidance to the District on how they must be corrected.
 - e. By **Friday, August 12, 2024**, the District must ensure that a copy of the approved procedures have been given to the individuals who must review this decision listed above in Remedies § 2(a); all school and charter school principals (or the school's equivalent of a principal); all special education teachers, including special education teachers in charter schools; and all charter school network directors of special education.
 - f. If CDE has not approved the District's draft procedures by July 15, 2024, CDE will order any further corrective actions that it deems necessary to fulfill the purposes of this subpart, Remedies § 3, in CDE's sole discretion and according to CDE's interpretation of the purposes of this subpart.
 - g. To verify that the District has implemented and is following this procedure, Monitoring Team will, by the **second Monday of each month**—beginning September 9, 2024 and continuing to and including May 12, 2025—submit monthly reports containing the information required to be tracked by Remedy § 3.
 - h. District may, at its discretion, address staffing issues pertaining to special education teachers and those pertaining to related service providers in separate sets of procedures.
 - i. District can submit existing procedure(s) that meet these requirements, including procedure(s) submitted in response to Remedies imposed by

other state complaint decisions, but they must be submitted to CDE Special Education Monitoring and Technical Assistance Consultant for review and approval prior to being finalized.

- j. This Remedy shall not limit District's obligations with respect to any Remedy of a previous State Complaint Decision, 2023:570, requiring District to create procedures with respect to staffing.

4. Determination of Compensatory Education Services

- a. CDE recognizes that District has begun its internal process for the determination and provision of compensatory services for Students A through G. District may, at its discretion but no later than **Monday, June 17, 2024**, submit to CDE a written request for waiver of subsections (d) through (k) of this Remedy. This request shall include, at minimum:
 - 1. An identification of which of Student A and Students C through G have been determined to require compensatory education.
 - 2. The compensatory education type, subject matter, amount, setting, and how the services will be provided for each of Student A and Students C through G. The number of compensatory service minutes provided shall not be zero.
 - 3. A copy of each PWN sent to Parents proposing these offers of compensatory education.
 - 4. A proposed timeline by which the compensatory services detailed in the PWNs will be delivered.
- b. If District timely submits this information, CDE shall, by **Monday, June 24, 2024**, approve this request with respect to all students, approve this request with respect to some students but reject with respect to others, or reject this request with explanation to District on CDE's reasoning for the rejection.
- c. Should this request be approved with respect to all of Student A and Students C through G, District's obligations under subsection (d) shall be waived. Should this request be approved with respect to some of Student A and Students C through G, District's obligations under subsection (d) of this shall be waived with respect to those students but remain in place for all other students. Should this request be rejected, District's obligations under subsection (d) of this Remedy shall remain in place for Student A and Students C through G. Nothing in this paragraph shall be construed to waive District's obligations under Remedies §§ 1 through 3 or Remedy § 5.

- d. If CDE has not approved the request outlined in subsections (a) through (c) of this Remedy, Student A and Students C through G shall receive compensatory direct specialized instruction services provided by a licensed special education instructor in the amounts listed below⁴. These services must target each Student's current annual IEP goals.
1. Student A shall receive no less than 3,328 minutes of direct specialized instruction services, or 2,496 minutes if those services are provided on a one-on-one basis.
 2. Student C shall receive no less than 2,352 minutes of direct specialized instruction services, or 1,764 minutes if those services are provided on a one-on-one basis.
 3. Student D shall receive no less than 3,120 minutes of direct specialized instruction services, or 2,340 minutes if those services are provided on a one-on-one basis.
 4. Student E shall receive no less than 660 minutes of direct specialized instruction services, or 495 minutes if those services are provided on a one-on-on basis.
 5. Student F shall receive no less than 500 minutes of direct specialized instruction services, or 375 minutes if those services are provided on a one-on-one basis.
 6. Student G shall receive no less than 2,704 minutes of direct specialized instruction services, or 2,028 minutes if those services are provided on a one-on-one basis.
- e. District may, at its discretion, provide more than the above-assigned amounts of compensatory services. The parents of these Students may waive, in writing, their Student's participation in some or all of these compensatory services, but must first be provided a copy of this Decision and specifically informed of District's compensatory service obligation with respect to their Student.

5. Provision of Compensatory Education Services

- a. To verify that Student A and Students C through G receive the compensatory education required by this Decision, District must submit records of service logs for each of Student A and Students C through G to

⁴ The determination of these service minute allocations for each student was made by assigning 20% of the missed service minutes, or 15% of the missed service minutes if services are provided on a one-on-one basis. District may, at its discretion, provide a combination of group services and one-on-one services, and prorate its obligations accordingly.

the CDE by the **second Monday of each month** until all compensatory education services for that student have been furnished. The name and title of the provider, as well as the date, the duration, and a brief description of the service must be included in the service log.

- b. These compensatory services shall begin as soon as possible and will be in addition to any services Student A and Students C through G currently receive, or will receive, that are designed to advance them toward IEP goals and objectives. If for any reason, including illness, a student is not available for any scheduled compensatory services, District will be excused from providing the service scheduled for that session. If for any reason District fails to provide a scheduled compensatory session, District will not be excused from providing the scheduled service and must immediately schedule a make-up session in consult with parents and notify the CDE of the change in the appropriate service log.
- c. These compensatory services must be provided outside of the regular school day (preferably on weekends or during school breaks) to ensure students are not deprived of the instruction they are entitled to receive during the school day (including time in general education).
- d. All compensatory education will have been provided to Student A and Students C through G no later than **one year from the issue date of this Decision**.
- e. If CDE determines, in its sole discretion, that additional information or action is necessary to verify or ensure that Student A and Students C through G receive the compensatory education required by this Decision, it may require District to provide additional information, such as a student's IEP, class schedule, or other documentation, or to take any additional actions deemed necessary by 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 District to meet any of the timelines set forth above may adversely affect the District's annual determination under the IDEA and subject the District 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 2nd day of May, 2024.



Nick Butler
State Complaints Officer

APPENDIX

Complaint, pages 1-9

- Exhibit 1: Release of Information for Student A
- Exhibit 2: Student A's Evaluation and Eligibility Checklist
- Exhibit 3: Student A's IEP (October 19, 2022)
- Exhibit 4: Student A's Behavior Intervention Plan (October 20, 2023)
- Exhibit 5: Student A's Amended IEP (April 4, 2023)
- Exhibit 6: Student A's Attendance Records
- Exhibit 7: District Calendar
- Exhibit 8: Student A's IEP (October 4, 2023)
- Exhibit 9: IEP Meeting Notes (January 10, 2024)

Response, pages 1-5

- Exhibit A: Student A's IEPs
- Exhibit B: Student A's Behavior Plans
- Exhibit C: Student A's Evaluations
- Exhibit D: Student A's PWNs
- Exhibit E: Documentation from IEP meetings for Student A
- Exhibit F: Service Logs for Student A
- Exhibit G: Student A's Attendance Records
- Exhibit H: Documentation of Behavioral and Disciplinary Incidents for Student A
- Exhibit I: Report Cards and Progress Monitoring for Student A
- Exhibit J: School Calendars
- Exhibit K: Communication Logs
- Exhibit L: District Policies and Procedures
- Exhibit M: Correspondence
- Exhibit N: Individuals with Knowledge of Facts Underlying Complaint
- Exhibit O: Verification of Delivery of Response to Parent or Complainant
- Exhibit P: List of Students Enrolled in AN Program
- Exhibit Q: Attendance Records for Students B through G
- Exhibit R: IEPs for Students B through G
- Exhibit S: Service Logs for Students B through G
- Exhibit T: List of Teachers and Service Providers
- Exhibit U: List of Paraprofessionals
- Exhibit V: Contact Information for Paraprofessionals

Reply, pages 1-5

- Exhibit 11: Text messages between Special Education Teacher 1 and Parent

CDE Exhibits

- CDE Exhibit 1: Email regarding contractor approval

- CDE Exhibit 2: Email from Director regarding state of AN Classroom
- CDE Exhibit 3: Written Statement from Principal – April 2, 2024
- CDE Exhibit 4: Written Statement from Principal – March 21, 2024
- CDE Exhibit 5: Student A’s IEP, as amended March 6, 2024
- CDE Exhibit 6: District Process for Determining Compensatory Services
- CDE Exhibit 7: Mental Health Service Logs for Students
- CDE Exhibit 8: Status Update on Compensatory Education Determination
- CDE Exhibit 9: PWN of Proposal of Compensatory Services (Template)
- CDE Exhibit 10: List of Students A through G

Telephone Interviews

- Parent: March 13, 2024
- General Education Teacher: March 20, 2024
- Special Education Teacher 2: March 20, 2024
- Substitute Teacher: March 20, 2024
- Paraprofessional: March 20, 2024
- Social Worker 5: March 20, 2024
- Principal: March 20, 2024
- Special Education Manager: March 21, 2024
- Special Education Instructional Specialist: March 21, 2024
- Social Worker 4: March 22, 2024
- Special Education Director: April 11, 2024