

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

**State-Level Complaint WSC 2024:540
St. Vrain Valley School District RE-1J**

DECISION

INTRODUCTION

On April 1, 2024, the parent (“Parent”) of a student (“Student”) identified as a child with disability under the Individuals with Disabilities Education Act (“IDEA”) filed a state-level complaint against the St. Vrain Valley School District RE-1J (“District”). After review of the written Complaint, the Colorado Department of Education (CDE) State Complaints Officer (SCO) determined that the Complaint identified eleven allegations subject to the jurisdiction of the state-level complaint process under IDEA and its implementing regulations at 34 C.F.R. §§300.151 through 300.153. The SCO has jurisdiction to resolve the Complaint pursuant to these regulations. The SCO assigned this Complaint to the undersigned Complaint Investigator for investigation.

In compliance with the IDEA, the corresponding federal regulations at 34 C.F.R. §300.1 et seq., and the Colorado Exceptional Children’s Educational Act (ECEA), CDE issues this report containing Findings of Fact, Conclusions, Decision and Order for Corrective Action.

RELEVANT TIME PERIOD

Pursuant to 34 C.F.R. §300.153(c), 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 April 2, 2023, through April 1, 2024, for the purpose of determining if a violation of the IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations. Findings of noncompliance shall be limited to the time one year prior to the date of the complaint.

COMPLAINT ALLEGATIONS

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

1. Failed to properly implement Student’s IEP in violation of 34 C.F.R. §300.323, specifically by:

- a. Failing to provide 150 minutes per week of specialized instruction in reading and writing, outside the general education classroom, required by Student's IEP, from October 10, 2023 to November 30, 2023;
 - b. Failing to provide 100 minutes of specialized instruction in reading, writing, and work completion by a paraprofessional under the direct supervision of a special education teacher, inside the general education classroom, in a small group setting, as required by Student's IEP, from October 10, 2023 to November 30, 2023;
 - c. Failing to educate Student in the least restrictive environment ("LRE") required by her IEP by moving Student from the general education classroom into the hallway for 30 minutes per day from October 10, 2023 to April 1, 2024;
 - d. Failing to provide 15-minute mini-lessons outside the general education classroom as required by Student's IEP, from October 10, 2023 to November 30, 2023;
 - e. Failing to provide the accommodations required by Student's IEP—highlighting instructions or key terms, highlighting the left margin, using graphic organizers, and copies of notes—from October 10, 2023 to April 1, 2024; and
 - f. Failing to properly monitor Student's progress on annual IEP goals and to provide Parent with periodic reports on Student's progress as required by Student's IEP from October 10, 2023 to April 1, 2024.
2. Determined Student's educational placement from October 10, 2023 to April 1, 2024—specifically, by moving Student from the general education classroom into the hallway for 30 minutes per day—outside of a properly convened IEP Team meeting, in violation of 34 C.F.R. §§ 300.116(a), 300.327, and 300.501(c).
 3. Failed to convene an IEP Team meeting to review and, as appropriate, revise Student's IEP to address her lack of progress on her IEP's annual goals from January 18, 2024 to April 1, 2024, in violation of 34 C.F.R. § 300.324(b).
 4. Failed to provide compliant prior written notice of proposed or refused actions regarding the provision of FAPE arising from an October 20, 2023 IEP Team meeting and a January 18, 2024 IEP Team meeting, in violation of 34 C.F.R. § 300.503.
 5. Failed to provide Parent with proper notice of an IEP Team meeting on November 30, 2023, in violation of 34 C.F.R. § 300.322(a)-(b).
 6. Failed to permit Parent to inspect and review education records relating to Student after Parent's request on January 5, 2024, in violation of 34 C.F.R. §§ 300.501 and 300.613.

INVESTIGATORY PROCESS

The Investigation included the following components:

- The Investigator reviewed the following records:

- The original complaint filed by the Parent and supporting exhibits;
- The District’s response to the allegations raised in the complaint and supporting exhibits;
- Educational records provided by the District; and
- The Parent’s rebuttal and additional supporting documentation;
- The Investigator conducted interviews with the Parent, accompanied by her attorney and the School’s Assistant Principal, accompanied by legal counsel.
- Questionnaires were returned by three school staff.
- The Investigator provided the opportunity for all parties to submit additional information for consideration during the complaint investigation.

RELEVANT LEGAL AUTHORITY

20 U.S.C. §1400 et seq.	Individuals with Disabilities Education Act
34 C.F.R. §300.116	Placements
34 C.F.R. §300.322(a) & (b)	Parent participation
34 C.F.R. §300.323	When IEP must be in effect
34 C.F.R. §300.324(b)	Development of IEP
34 C.F.R. §300.327	Educational Placements
34 C.F.R. §300.501	Opportunity to examine records; parent participation in meetings
34 C.F.R. §300.503	Prior notice by the public agency
34 C.F.R. §300.613	Access Rights

FINDINGS OF FACT

After thorough and careful analysis of all information relevant to the investigation, the Investigator makes the following findings:

General Facts:

1. The Student is 10 years old and attends fifth grade at a charter school (School) of the District. She is eligible and receives special education services under the IDEA as a learner with a specific learning disability, other health impairment and speech language impairment. *District Response, page 1.*

2. During the time period relevant to this complaint, the Student had two IEPs. The Student had an initial IEP developed May 10, 2023, an amendment that was developed on August 29, 2023, and a revised IEP dated November 10, 2023. *District Response Ex A – IEPs and Assistant Principal interview May 14, 2024.*
3. A summary of the Student’s May 10, 2023 IEP included the following salient points:
 - a. The Student’s specific learning disability impacted her ability to understand phonological relationships, transfer printed words to sounds, and use individual sounds to build words and spell, including understanding word parts and meaning. The Student had difficulty comprehending a variety of text at grade level. Letter formation and poor spelling affected her ability to plan, produce and edit written work. Secondary to her learning disability, the Student was impacted by a speech language impairment that affects her intelligibility. This specifically impacted her ability to express her needs, wants, and thoughts with staff and peers effectively. The Student was also impacted by an other health impairment affecting her organization, work completion and ability to apply skills to higher level reading and writing tasks.
 - b. Parents were concerned with the Student’s reading and writing. Additionally, it was explained the Parent observed the Student misses the smaller details in longer projects, which directly impacts her ability to produce the correct end product or result. The Student was very concerned with leaving the classroom for any additional assistance.
 - c. The IEP team developed nine goals to address the Student’s needs, including four reading goals, three communication goals, one writing goal and one self-determination goal.
 - d. An extensive list of environmental, academic/instructional/classwork, handwriting, assistive technology, and speech language accommodations were included to support the Student’s access to the general curriculum to make effective progress.
 - e. Services included:
 - i. Direct specialized instruction outside of the general education classroom two days per week for 50 minutes per day to address decoding, encoding, morphology, high frequency word instruction, oral reading fluency, vocabulary, and reading comprehension.

- 80% 4/5 on deletion of initial phoneme a consonant blend - insufficient progress
- 0% 0/5 on deletion of embedded phoneme in consonant blend – insufficient progress made.
- 93% 14/15 in sufficient progress made from a baseline of 100%

Yoshimoto Orton Gillingham Phonemic Blending assessment

- 90% on Phonemic Blending
- 85% on Phonemic Manipulation

Insufficient Progress

b. #2 Communication

- Goal: By May of 2024, Student will produce “th” in all positions at sentence level with 80% accuracy given 0-1 cues across 3 consecutive speech therapy sessions.
- Progress: Student is consistently producing “th” at the sentence level and in connected speech in all word positions. She has demonstrated approximately 91% (64/70) trials accuracy with speech sound with 0-1 cues throughout trials.
Progress Made

c. #3 Communication

- Goal: By May of 2024, Student will produce “sh” in all positions at sentence level with 80% accuracy given 0-1 cues across 3 consecutive speech therapy sessions.
- Progress: The “sh” sound has been targeted 35 times across all sessions at the sentence level. Student has been 100% accurate (35/35) with this speech sound at the sentence level.
Progress Made.

d. #4 Communication

- Goal: By May 2024, Student will produce all vocalic /r/ and r-blends (ar, air, ear, or, er) at word level with 80% accuracy and 1-2 cues across 3 consecutive speech therapy sessions
- Progress: Student has been learning and attempting to implement “frozen face” /r/ started to isolate tongue movement in production of vocalic /r/. Student has demonstrated improvement in her understanding and ability to produce /r/ this way in isolation as well as being able to verbalize correct placement and

movement of all articulates. While Student's accuracy with projection of the perfect targeted sound remains low, she is demonstrating closer approximation with many of the sounds.

Progress Made.

e. #5 Reading

i. Goal: By May 2024, given explicit instruction in sound letter relationships (i.e. phonology, orthography, morphology) Student will decode a list of 20 1 – 2 syllable words (real and nonsense) words containing closed, open, vowel-consonant-e, vowel team, r-controlled, consonant-le syllables with at least 90% accuracy across 2 of 3 opportunities.

ii. Progress:

- When decoding a list of 30 V-C-E words, Student scored 28/30 or 93%.
- When decoding a list of 30 V-C-e and closed syllable words, Student scored 28/30 or 93%. She had 2 errors and 3 self-correct.
- When decoding a list of 30 nonsense words, Student scored 15/30 or 50%
- When encoding a list of 20 one-syllable V-c-e words on 10/3/23, Student scored 18/20 or 90%.
- When decoding a list of 30 multisyllabic v-c-e words, Student scored 25/30 or 83%.
- The words Student was asked to encode she had previously decoded.
- Two syllable words were not progress monitored.

Progress Made.

f. #6 Reading

i. Goal: By May 2024 when give (sic) explicit instruction, Student will accurately pronounce and determine the meaning of targeted academic words by identifying their roots and affixes, explain their meaning and use them correctly in a sentence with 80% accuracy (out of a list of 20) across 2 of 3 sessions.

ii. Progress: Through reading and vocabulary activities, Student is able to pronounce, define and correctly use the word list in sentences. We are working on finding roots and affixes in the word that contains them. We feel Student will benefit from knowing these fifth-grade academic vocabulary words.

Student did not work on this goal.

g. #7 Reading

- i. Goal: By May 2024, when given instruction in reading comprehension strategies, (i.e. stopping at unfamiliar words, sounding out the parts of the word, rereading for understand, using a graphic organizer to take notes, highlighting main concepts , annotating on the text or highlighting a concept and connective evidence), Student will increase her reading comprehension skills (i.e., identify main idea, key details and summarizing) with 80% accuracy as measure by the reading rubric (52 points out of 64 points) and 80% accuracy on reading comprehension probes.
- ii. Progress: Read works passage level 4. Student scored 48 points on the reading rubric and 5/5 on Reading comprehension questions. Read works passage level 5. Student scored 48 points on the reading rubric and 5/5 on reading comprehension questions. Student will receive a main idea and/or summary graphic organizer to complete for each reading passage.

Progress Made.

h. #8 Writing:

- i. Goal: By May 2024, when given explicit instruction in planning, producing and editing written work, Student will generate a 5 paragraph passage by using a graphic organizer to brainstorm a topic, organize a minimum of 3 supporting details in sequential order, with compete sentence and correct phonological and orthographic spelling, correct letter formation and format with 80% accuracy in 3 out of 4 trials measure by the combined traits rubric.
- ii. Goal Progress: As demonstrated in the student's name narrative, she wrote 3/7 compound and complex sentences in paragraph one. She wrote 4/4 compound and complex sentences in paragraph two and in paragraph three. In Student's beginning of year rain storm writing on 8/18/23, she wrote 18 simple sentences and 13 compound or complex sentences 40%.

Insufficient Progress Made.

i. #9 Self Determination:

- i. Goal: By May 2024, in order to complete long-term assignments and projects, Student will use a self-monitoring tool to develop the ability to 1. Identify materials needed to complete a task; 2. Identify and write down steps/details needed to complete a task; 3. Check off parts of the tasks as she completes

them; and 4. Re-check steps prior to turning in work/assignments/project as evidenced by 90% of assignments completed with mastery the first time.

- ii. Progress: Student uses her classroom checklists and completes in class and home-based projects with 100% accuracy. As noted below, some of the 100% are after corrections.
 - 7/16 assignments 100%
 - 3/16 assignments 100% with corrections
 - 6/16 assignment 88% or above.

Progress Made.

District Response Exhibit E p.1-7.

5. At the end of the first quarter the Parent and School staff met on October 10, 2023 and continued meeting on October 20, 2023 to review the Student's first quarter progress. In addition to her IEP progress reports, the Student's grades at the end of the first quarter were reported as As in core courses, Reading, Mathematics, Science and Social Students. *District Response Exhibit F.*
6. A series of emails between Parent and School Staff discussed ways to improve the rubrics used to monitor goal progress. Parent provided examples and summaries. School staff indicated that the School would revisit the rubrics and update baseline to provide more clarity regarding monitoring the Student's goals progress. The District and Parent committed to reconvening the IEP team to address concerns and problem solve. *District Response Exhibit L p. 32-34.*
7. On October 31, 2023 the Parent provided the School with input and concerns with the Student's first quarter progress reports. She requested that this information get added to the IEP under Parent input and concerns. The correspondence included several dates for the IEP team to reconvene and address ongoing concerns with implementation and progress reporting. A list of concerns included:
 - a. Method of evaluation – There was not a method evaluation under each of the Student's goals. The IEP team needs to reconvene and correct this.
 - b. Weekly data sheets are to be added within the method of evaluation of the IEP.
 - c. Identify the implementor of each goal and add them to the IEP.
 - d. PLAAFP section still does not include Student's medical diagnosis disorders, nor describe how her multiple disabilities impact each part of her day. The IEP team needs to reconvene and correct this.

- e. Student had 39 accommodations. Of them, 20 or 51% have not been implemented. Others are unknown if they have been implemented or not.
8. A Prior Written Notice dated November 3, 2023, acknowledged the Parent's list of requests and proposed to include these items as part of the IEP team meeting scheduled on November 13, 2023. *District Response Exhibit D p. 11 & 12.*
9. The District acknowledged the Parent did not receive a formal meeting notice for the November 30, 2023 IEP team meeting. It was stated this was continuation of the November 13, 2023 meeting the Parent had also participated in. Additionally, the Parents submitted written requests, proposals and comments to draft IEPs provided by the District on November 12, 2023, November 17, 2023 and November 29, 2023. The Parent also met individually with a district administrator on November 17, 2023, to discuss ongoing concerns. At the completion of the meeting, through email the Parent indicated that she looked forward to meeting with the IEP team on November 30, 2023 to finalize the IEP. *District Response p.38 and District Response Exhibit L p. 444.*
10. Prior Written Notice dated December 4, 2023 memorialized the decisions made during the November 30, 2023 IEP team meeting. The District proposed the IEP in order to provide FAPE. The following actions were proposed:
 - a. The team addressed clerical errors and adopted the Parent suggested formatting changes.
 - b. The IEP team agreed that progress monitoring data would be collected at least every 4 weeks. Parents would be provided with access to a progress monitoring spreadsheet, with access to real-time data. The spreadsheet would be used to compile progress reports that would be distributed to Parents each quarter during the school year (October, December, March, and May).
 - c. The IEP team clarified that for IEP Goal 9 – Self-Determination currently the Student was independently able to use the self-monitoring tool with maximum (over 75%) adult support.
 - d. The IEP team determined that Student continued to require 150 minutes per week of specialized instruction outside the general education classroom and 100 minutes per week of direct instruction inside the general education classroom. Previously, the IEP team had agreed to use the schoolwide “flex time” to deliver the students specially designed instruction. During the 2022-23 school year flex time was 50 minutes in

duration. For the 2023-24 school year, the flex time schedule was modified and reduced to 45 minutes. This required the IEP team to modify the service delivery model. Due to this five-minute change in flex time, in order for the Student to receive 150 minutes a week of specialized instruction an additional 15 minutes of specially designed instruction would be provided by the special education teacher in a (1:1 setting or small group) outside of the general education setting. These were called mini lessons.

- e. The mini-lesson would be a time to front load new information or provide time to reteach skills. The paraprofessional would reinforce this learned skill for an additional 30 minutes. Student also received 100 minutes of specialized instruction in reading, writing and work completion inside the general education setting. The IEP team over Parents' objection, agreed that the specialized instruction in the general education setting would be provided by a special education teacher or paraprofessional trained and supervised by the special education teacher.
- f. The School offered compensatory services for the specialized instruction missed due to the flex time schedule change. Approximately 15 minutes for eight weeks were missed. The IEP team agreed to provide 120 minutes of compensatory services to remedy the specialized instruction missed due to the flex time schedule change. The School proposed three options, before school, after school or during Wednesday flex time.

District Response Exhibit D.

11. In addition, to the proposals, the December PWN noted other options the IEP considered and reasons they were rejected. These include:

- a. The Parent requested that dates be added to each baseline data point that was collected. It was not District practice to add dates corresponding to each baseline. The baselines agreed upon by the IEP team would remain and be used to measure goal progress.
- b. Parents requested that Wilson Reading tool be used as the unit of measure for reading goal 1 and 2. The team determined progress monitoring as proposed was tailored to the skills identified in the goal, and that the Student's progress was not tied to any particular reading progress (i.e. Wilson Reading system).

- c. Goal objectives were not returned to benchmark dates in the May 2023 IEP. The District explained that because the Team was amending the IEP, the objectives as written accurately reflect the Student's current performance and are reasonable.
- d. Parent was concerned with the baseline data for Goal 4. The District indicated the baseline as written in the November 2023 IEP represented the Student's baseline data using the newly developed reading rubric and was accurate.
- e. Parent requested that the baseline data points for all three communication goals be returned to the May 2023 IEP baseline. The District explained that the May 2023 baseline data had been derived from information from the Student's private speech language therapist (SLP). The November 2023 amended baseline accurately reflected the Student's current levels of performance gathered in the educational setting. The projected achievement data for goal attainment remained as May 2024.
- f. The Parent requested that meeting notes from the May 2023 IEP, including attachments, and associated PWN be included in the November 2023 IEP. The District explained it was unnecessary because those pieces were already within the Student's educational record.
- g. Parent requested 10 hours of compensatory services for the specialized instruction provided by the paraprofessional within the general education setting. She expressed that the special education teacher does not monitor and observe the paraprofessional in the general education classroom. Therefore, the paraprofessional has not been adequately supervised. The District stated that the special education teacher designs and develops the instruction and lessons, models the delivery of instruction, and then the paraprofessional provides instructional support. This includes repetition and practice of previously learned skills within the general education classroom. The special education teacher supervises the paraprofessional by conducting daily check-ins and meeting collaboratively with her at least weekly. The District indicated no compensatory service was necessary.
- h. The IEP team considered the Parent's request for 142.5 hours of compensatory education due to a lack of accommodation implementation. The District contends the accommodations have been implemented as required. Additionally, in response to the Parent's concern the IEP team created an accommodation tracker to monitor the implementation of the Student's accommodations.

District Response Exhibit D.

12. Beginning December 12, 2023, School Staff begin using a daily accommodation form to record accommodation requirements, and implementation. It was noted by the general education teacher and paraprofessional working in the classroom that the Student would refuse to use the accommodation. *Assistant Principal Interview May 14, 2024, Staff Questionnaires & District Response Exhibit O.*
13. Progress reports dated December 31, 2023 documented the following Student progress:
- a. Goal 1 Reading – Blend, segment, and manipulate individual phonemes.
 - i. Scores on assessment tool dated 12/11/2023, 7/8 measured at 100%.
 - ii. Progress made.
 - b. Goal 2 Reading – decode and encode
 - i. Student is making expected progress on objective 1 (decoding words). She is making some progress on objective 2 (encoding words) with r-controlled words. Nonsense words being her biggest area of struggle.
 - ii. Progress made.
 - c. Goal 3 Reading – morphology to support reading fluency and comprehension.
 - i. Student made expected progress on pronouncing, determining the meaning and identifying the root and affix of Latin based words. She did not make growth in using the words in a sentence.
 - ii. Some progress made.
 - d. Goal 4 Reading – reading passage strategies and comprehension.
 - i. Student made expected growth utilizing her reading strategies to increase her comprehension skills. Student made progress on comprehension questions from 3/5 (60%) on baseline to 5/5 on 2/3 opportunities (100 accuracy).
 - ii. Progress made.
 - e. Goal 5: Writing – improve ability to generate a 5-paragraph essay by using graphic organizer.
 - i. Student consistently uses a variety of simple, compound and complex sentences and consistently scores two or higher on the rubric.

- ii. Progress made.
- f. Goal 6: Communication – product “th” in all positions –
 - i. Student is at 90% accurate with “th” across all word positions. Student continues to require minimal cueing (1-2 reminders) through therapy session to remember proper placement of articulators for this speech sound.
 - ii. Insufficient progress made.
- g. Goal 7: Communication – vocalic /r/ and r-blends progress made.
 - i. Student has demonstrated progress in her accuracy of articulation with vocalic r in 5/8 target areas.
 - ii. Progress made.
- h. Goal 8 Communication – “sh” in all positions.
 - i. Student consistently produces “sh” in all word positions with 100% accuracy at the sent level with no cues.
 - ii. Goal met.
- i. Goal 9: Self Determination – use self-monitoring tool to develop complete long-term assignments that require planning –
 - i. Data collected on 10/18/23 demonstrate skill with 75% adult support, 12/1/2023 new self monitoring tool introduced required maximum adult support when completing tool, and 12/11/2023. Completed first 2 steps with 100% independence, 100% adult support required on remaining steps.
 - ii. Progress Made

District Response Exhibit F p. 10-21.

- 14. In addition to the Student’s IEP progress reports, the School reported grades at the end of quarter two. The Student received As in Mathematics, Science and Social Studies. In reading, the Student received a B+. *District Response Exhibit F p. 1.*
- 15. Parent emailed the School on January 5, 2024 and requested the progress monitoring documents to allow the Parents the opportunity to review records in advance of the January 18, 2024 meeting. The following documents were specified:
 - a. All progress monitoring reports (dated),

- b. All raw data collection sheets (dated),
- c. Raw data collection work (dated),
- d. Graded reading rubrics from 11/6/23, 11/13/23 and 12/8/23 with accompanying reading passages/texts, and
- e. Any other progress monitoring documents team may have.

Parent Complaint Exhibit 4

16. The District responded to the Parent explaining that the District and School did not retain the raw data collection sheets or underlying work samples. It was stated all of this information had been entered into the shared spreadsheet where it could be accessed by the Parent.

District Exhibit L p. 134

17. The District explained the Parent had made a similar request at the November 30, 2023 IEP meeting. Initially, the District indicated it had previously provided a response which could be found in the PWN dated December 4, 2023. However, when the District reviewed the December PWN it was discovered not all the information had been included. It appeared the response had been cut off. The District issued another PWN on January 8, 2024 in response to the Parent's most recent request. The January 8, 2024 PWN included the response missing from the December 4, 2023 PWN.

- a. The District explained it would not be providing the requested information in response to the Parent's most recent request for raw data and individual assessments.
- b. The District response left off the December 4, 2023 PWN:
 - i. Goal 8 – Communication. This goal was updated with new baseline data. The goal was changed to increase its rigor.
 - ii. Copies of assessments, specifically baseline scores for Goal 3 and 5 were requested. The District noted that it was not the District's practice to maintain individual assessments results after they had been input into the data collection spreadsheet or evaluation report. Additionally, writing samples were shared with Parent during the November 2023 IEP meeting. There are no records to produce.
 - iii. Parent wanted copies of the graphic organizer the Student was using for writing assignments. It was agreed that these would be provided to the Student and shared with parent before writing projects.

- iv. Concerns were raised by the Parents that the Student had not made adequate progress on her IEP goals. The IEP team disagreed. The October 2023 progress report indicates some progress. Additionally, the IEP team convened in November to review IEP goals, baseline data points, and clarify service delivery. Other progress monitoring information has been created and shared with Parent as well.

Parent Complaint Exhibit 6.

18. During an interview with the School's Assistant Principal, she acknowledged that not all progress monitoring data had been shared with the Parent, specifically Quarters 2 and 3 data. *Assistant Principal Interview May 14, 2024.*

19. On January 18, 2024, the team convened to discuss the Student's progress reports. The team was assisted by a State provided IEP facilitator. Parent reported that the initial progress report meeting on January 18, 2024 was scheduled for one hour, which did not provide the IEP team with enough time to review each of the Student's nine goals plus objectives. Parent requested another meeting. However, the District declined to meet again. *Complaint Exhibit 7.*

20. On January 26, 2024, the District responded to the questions the Parent had communicated just prior to the January 18, 2024 facilitated meeting. Work samples were included with the District's response. The District further stated that the School team declined to meet in-person to continue discussing the December progress report. It was suggested that ongoing communication would be writing to avoid misunderstandings. The response from the District also included a communication plan proposal that would be followed going forward. *Parent Complaint Exhibit 7.*

21. Salient portions of the District's January 26, 2024 point-by-point response to the Parent's concerns stated:

- a. School will provide student work samples with this correspondence. The raw data collection sheets or protocols tied to specific curriculum will not be provided. Moving forward, all providers will input progress data collected into the shared spreadsheet. Student work samples related to data collection will be sent home via email. Formal assessment protocols and provider notes will not be sent home.
- b. The School will continue to provide instruction as currently provided. The team has not yet had a full school year to implement the full scope and sequence of the

evidence-based curriculum. The specialized providers have been trained to make adjustments to the pacing and re-teach as needed when data shows something different is required. The Student's IEP goals are written to be met in a year. The objectives are best estimates of where Student may reach throughout the year.

- c. The December 4, 2023 PWN incorrectly stated that the paraprofessional would provide services outside of the general education setting. The school team is following the IEP for delivering services. The paraeducator provides services inside the classroom.
- d. The Special Education teacher works with the Student inside of the classroom for the 15-minute mini-lesson as requested by Parents.
- e. The Student is not being removed from the general education setting for 30 minutes per week. It is acknowledged that when the classroom was too busy and the skill being taught required a quiet area, the paraprofessional worked with Student in the hallway to ensure she could focus. This occurred for a few minutes at a time. The School has taken note of the request to discontinue this practice.
- f. The school will continue the current delivery model. The paraprofessional works under the guidance of the special education teacher.

Parent Complaint Exhibit 7.

22. The paraeducator explained that in the general education classroom, she worked with the Student primarily on vocabulary words, writing, recognizing specific types of words during class reading time and making sure the Student was using checklists for longer assignments. The paraeducator kept a daily provider log where she noted by day how the Student had been supported. The general education teacher described specially designed instruction in the classroom as the paraeducator ensuring the Student was on task and using her checklists. The paraeducator assisted the Student on writing assignments. The paraeducator helped the Student break down assignments into smaller tasks if the Student was confused. The general education teacher acknowledged that there were a handful of times that the Student received 1:1 instruction in the hallway. This occurred because the Student and paraeducator were working on a verbal activity and the noise in the classroom did not allow the Student to focus.

Staff questionnaires & District response Exhibit G Service Logs.

23. Progress was reported on March 31, 2024. A summary of each goal is included:

- a. Goal 1 Reading – Blend, segment, and manipulate individual phonemes
 - i. Data collected 1/29/2024 - 8/9 at 100%; 2/26/2024 7/9 100%.
 - ii. Progress made.
- b. Goal 2 Reading – decode and encode - progress made.
 - i. Data collected on 1/29/2024 decode 90% (21/22) and encoding 90% (20/22).
 - ii. Objective 1 decode consonant-le syllables 100%.
 - iii. Objective 2 encode consonant-le syllables 0% (spelled the word incorrectly, but she accurately encoded consonant-le part of the word.)
 - iv. Progress made.
- c. Goal 3 Reading – morphology to support reading fluency and comprehension.
 - i. Student made growth on pronouncing and using the words in a sentence.
 - ii. She maintained her skills on meaning and root & affix.
 - iii. Progress made.
- d. Goal 4 Reading –
 - i. Student made expected growth utilizing her reading strategies to increase her comprehension skills. Data collected 2/5/2024 – 4/5 on comprehension questions (80% accuracy); 2/13/2024 5/5 on comprehension questions (100% accuracy); and 2/26/2024 5/5 on comprehension questions (100% accuracy). Student made progress on comprehension question from 3/5 (60%) on baseline to 5/5 on 2/3 opportunities (100%).
 - ii. Student’s most recent STAR reading progress monitored score on 3/4/2024 was 1044 putting her at benchmark for 5th grade in the 44thile.
 - iii. Specially for Standard CO. Reading 5.2.2 a.ii – Determine two or more main ideas of text and explain how they are supported by key details summarize the text Student demonstrated 83% mastery.
 - iv. Goal met – progress made.
- e. Goal 5: Writing – improve ability to generate a 5-paragraph essay by using graphic organizer – progress made.

- i. This goal is currently being measured with a writing rubric that tracks conventions, ideas, organization, word choice, sentences and format.
 - ii. Data collected 1/8/2024 74.5/76 on middle of year writing sample (1st draft, 4 paragraphs); 3/13/2024 72/76 on a 5-paragraph essay (94.7%); and 3/26/2024 72.5/76 on a 5-paragraph essay (95%).
 - iii. Progress Made
 - f. Goal 6: Communication – product “th” in all positions –
 - i. Student is 92% accurate with “th” across all word positions. Student required 2 cues on 1/11/24 for this sound. All other sessions were 0-1 cues. Data 98% initial 85%; medial 85%; and 92% final.
 - ii. Progress made.
 - g. Goal 7: Communication – vocalic /r/ and r-blends.
 - i. Student demonstrated progress in accuracy of articulation with all vocalic /r/ targets and r-blends. She is demonstrating a much stronger lift and hold of the bunched /r/ position and has shown marked improvement in her ability to correctly form these sounds at the word level.
 - ii. r-blends 95%; ai 61%; air 78%; ire 73%; ear 33%; ur 42% and or 66%.
 - iii. Progress Made
 - h. Goal 8 Communication – “sh” in all positions
 - i. This speech sound was specifically monitored in two speech sessions this quarter and no errors were noted. Attention was also given to this speech sound in other instances of connected speech during therapy sessions and in conversation while moving around in the classroom and hallway. Student’s accuracy remains above 80% accuracy without cues.
 - ii. Goal met.
 - i. Goal 9: Self Determination – use self-monitoring tool to develop to complete long-term assignments that require planning.
 - i. Student successfully used her self-monitoring tool with many checkpoints to independently identify materials, identify and write down steps/details, check

off the parts and re-check steps needed to complete her Genius Hour project with a score of 100%.

ii. Progress Made.

District Response Exhibit F pages 10-21.

24. The Parent expressed frustration with the receipt of the progress reports for Quarter 3. She explained that the end of Quarter 3 was March 15, 2024 and she received IEP progress reports on April 2, 2024. The Assistant Principal explained that the quarter ended March 15, 2024. The next week was the District's spring break. Teachers were required to have grades submitted March 25, 2024, and report cards were issued that week. Through email dated April 2, 2024, the School sent the Parent the Student's Q3 progress reports, including copies of the STAR reading progress monitoring referenced in the report. It was noted that the progress reports were inadvertently referred to as Q2 instead of Q3, which created some confusion. *Assistant Principal Interview May 14, 2024 & District Response Exhibit L - Communication Part 2.*
25. The Student's third quarter grades were reported in addition to IEP progress. The Student maintained As in Reading, Science, and Social Studies. She received a B in Mathematics. *District Response Exhibit F.*
26. At the time the complaint was filed on April 1, 2024 the District had proposed to meet on May 1, 2024, to conduct an annual review of the Student's IEP.

CONCLUSIONS OF LAW

1. The overarching purpose of the IDEA is to ensure that an eligible student with a disability has available to them a Free Appropriate Public Education (FAPE), including special education and related services that meet the unique needs of individual students. Equally important, the IDEA and federal regulation ensure that the rights of children with disabilities and their parents are protected. *34 C.F.R. §300.1.*
2. FAPE must be individually designed to meet the unique needs of an eligible student, and a school district must offer an Individualized Education Program ("IEP") that is reasonably calculated to enable a student to make progress appropriate in light of the student's unique circumstances. *Bd. of Educ. Of the Hendrick Hudson Central Sch. Dist. v. Rowley*, 553 IDELR 656 (1982) and *Endrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174 (2017).

IEP Implementation (1a & 1b)

3. Under the IDEA, the primary vehicle for providing FAPE is through an appropriately developed IEP that is based on the individual needs of the child. *Dear Colleague Letter*, 115 LRP 53903 (OSERS 2015). The IEP must aim to enable the child to make progress. "After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement." The instruction offered must be "specially designed" to meet a child's "unique needs" through an "[i]ndividualized education program." *Andrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174 (2017).
4. IEP services must be delivered in conformity with the IEP. *34 C.F.R. §300.17(d) and 34 C.F.R. §300.323(c)(2)*. However, perfect implementation is not required under the IDEA mandate. It is possible for minor deviations between services provided and the services outlined in the IEP to not amount in a denial of FAPE. *I.Z.M v. Rosemount-Apple Valley-Eagan Pub. Schs.*, 70 IDELR 86 (8th Cir. 2017). Importantly, "perfection is not required" in an IEP. *Loren F. v. Atlanta Ind. Sch. Sys.*, 40 IDELR 34 (11th Cir. 2003).
5. In determining whether an implementation failure is material, it may be reasonable to consider the duration of the failure. *Turner v. District of Columbia*, 61 IDELR 126 (D.D.C 2013).
6. In this case, the District acknowledged for the period of time October 10, 2023 through November 30, 2023, that due to a change in the School's master schedule, schoolwide flex time had been reduced from a 50 minute session to a 45 minute session. This impacted the Student's delivery of specially designed instruction outside of the general education classroom. The IEP designated the Student would receive 150 minutes of specially designed instruction per week through resource room instruction, services in the general classroom, and the utilization of the schoolwide flex time. When the length of flex time changed, the Student's special education was reduced from 150 minutes to 135 minutes per week. This resulted in a unilateral change to the Student's IEP. Recognizing this was an issue, the District offered, and the Parent accepted, compensatory services to make up for these missed services. No further corrective action is required.
7. Paraprofessionals may be used to assist in the provision of special education and related services to children with disabilities, but they must be appropriately trained and supervised in accordance with state law, regulation, or written policy. *34 C.F.R. §300.156(b)*. Colorado ECEA Rule 3.04(1)(e) requires administrative units to determine the qualifications and competencies required for paraprofessionals.
8. In this case, the District determined the paraeducator qualified and competent. The School explained the paraeducator was supervised by the Special Education Teacher. Supervision

included daily check-ins, modeling instruction for the paraeducator, weekly collaboration meetings, and designing the instruction that occurred within the general education classroom. Provider logs outlined that the Paraeducator was providing services in the classroom according to the Student's IEP. The Student received special education in the general education classroom according to her IEP. The paraeducator was qualified and adequately supervised in conformity with IDEA and Colorado requirements.

Least Restrictive Environment (1c & 1d, 2)

9. FAPE must be delivered in the LRE. The Student has the right to be educated with nondisabled peers to the maximum extent appropriate to meet her needs. Removal from the general curriculum and nondisabled peers must occur only if she is unable to be successful in regular classes with the use of supplementary aids and services. *34 C.F.R. §300.114*.
10. Educating children in the least restrictive environment in which they can receive an appropriate education is one of the IDEA's most important substantive requirements. The LRE requirement is a specific statutory mandate. *L.B. v. Nebo Sch. Dist.*, 41 IDELR 206 (10th Cir. 2004).
11. In this case, the District acknowledged that there were a few occasions in November and December 2023 when the Student received 1:1 instruction with the paraeducator outside of the general education classroom, specifically in the hallway outside of the classroom. It was noted by the paraeducator and the classroom teacher that the Student was working on an activity that required a less noisy environment. In all, the Student was removed a maximum of five times for approximately 20 minutes per session, totaling no more than 100 minutes. Although this unilateral decision results in a procedural violation, the Student continued to receive FAPE.
12. When the District recognized that it had not been providing the full 150 minutes of special education service to the Student outside of the general education classroom due the schedule change in the schoolwide flex time course, it immediately began offering an additional 15 minutes each week. It was noted by the District that after the November 13, 2023 when this discussion regarding the missed special education time was initiated, and before the November 30, 2023 IEP meeting when the Student's new IEP was developed, the Student was pulled out for 1:1, 15 minute sessions administered by the special education teacher. The District indicated these sessions were provided while the new IEP was being finalized. After the IEP was finalized, the Student began receiving services through mini lessons according to the Student's November 2023 IEP. Although removing the Student from the

general education classroom prior to finalizing the IEP was a unilateral decision by the District, it did not result in any substantive harm to the Student.

Accommodations (1e)

13. Public agencies must ensure that each regular teacher, special education teacher, related services provider, and any other service provider who is responsible for the implementation of a child's IEP is informed of her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the child's IEP. *34 C.F.R. §300.323(d)(2). Damian J. v. School Dist. of Philadelphia*, 49 IDELR 161 (E.D. Pa. 2008).
14. In this case, the record indicated the Student received accommodations throughout her school day. For example, the general education teacher and the paraeducator explained the student used various checklists when completing work in the general education classroom, the student was seated in the front of the classroom, and progress data included student work with tracking lines drawn on them. Beginning mid-December, the District became more intent with tracking the implementation of the Student's accommodations by documenting daily that accommodations were offered and how they were utilized by the Student. The IDEA does not require school districts to maintain service logs, as District diligently did in this case, but school districts must be able to show that services were provided. *Charter School Institute*, 123 LRP 24951 (SEA CO 8/1/23). Based on the totality of the documentation it is determined that Staff were aware of the Student's accommodations and implemented them throughout her school day.

Monitor Progress (1f)

15. The IDEA does not require a district to use any particular method to track a student's progress toward his annual IEP goals. Analysis of Comments and Changes to *71 Fed. Reg. 46662* (2006). Instead, it leaves that decision up to the IEP team.
16. A district cannot monitor a student's progress effectively without data. Each district must ensure that the educators responsible for implementing the student's IEP understand the type of data to collect and document that data appropriately. *McKay v. School Bd. of Avoyelles Parish*, 66 IDELR 283 (W.D. La. 2015)
17. In this case, there is no lack of progress monitoring data. In fact, the record contains a multitude of data that were collected by the School and reported in the IEP. It is well

documented that there was disagreement in the interpretation of the progress data that was reported by the District. However, disagreement does not mean the District was not properly monitoring the Student's progress on IEP goals.

18. The District must send the parents periodic reports of the student's progress toward his IEP goals following the schedule set forth in the student's IEP. 34 C.F.R. §300.320(a)(3)(ii). Once the IEP team decides how the district will measure the student's progress, it must document that method (or methods) in the student's IEP. 34 C.F.R. §300.320(a)(3)(i).
19. On October 12, 2023, December 31, 2023 and March 31, 2024, the District provided quarterly progress reports to the Parent. This was the schedule which had been agreed upon by the IEP team. Additionally, it is well documented that the IEP team convened on at least four occasions to specifically review and understand the Student's report of progress. It is within the District's discretion to determine the specific content of the periodic progress reports provided to parents of children with disabilities, and in reporting progress on annual goals. *Letter to Pugh*, 69 IDELR 135, (OSEP 2017).
20. As outlined in the PWN dated December 4, 2023, the IEP team agreed to collect additional data, specifically that the progress monitoring data would be collected at least every four weeks. Additionally, the IEP Team developed a shared document that provided the Parent with real time access to the Student's goals and the administration of progress monitoring assessments. The Parent acknowledged that she accessed the shared document but explained that it was not always up to date and for some goals the data was incomplete. District indicated that some goals did not collect objective data that could be included in the shared document. For example, explaining that the data collected on writing a five-paragraph essay depended on the timing of that assignment and might not occur every four weeks.
21. The District reported progress to the Parent in a variety of ways, including timely quarterly progress reports as indicated in the IEP. At a minimum the Parent was provided periodic reports of progress at least as often as students without disabilities. There is no violation.

Review and Revise IEP (3)

22. Each public agency shall initiate and conduct meetings to review each child's IEP periodically and, if appropriate, revise its provisions. At a minimum, a meeting must be held for this purpose at least once a year. The changing needs of some students with disabilities may demand more frequent reviews and revisions. 34 C.F.R. §300.324(b)(1)(i).
23. If it turns out a child is not making progress at the level the IEP team expected, the team must revisit the IEP with the Endrew *F.* standard in mind and revise it as necessary to ensure the

student is receiving appropriate special education and related services and that the goals are individualized and ambitious. *Questions and Answers on Andrew F. v. Douglas County Sch. Dist. Re-1*, 71 IDELR 68 (EDU 2017).

24. The IDEA does not guarantee or promise any particular educational outcome or level of progress. *Andrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174 (2017). It should be noted that just because a student with a disability struggles to meet one or more of his annual goals this doesn't mean he's entitled to relief for a denial of FAPE. The key question is how the district responds to the student's lack of anticipated progress. *I.K. v. Manheim Township Sch. Dist.*, 83 IDELR 54 (3d Cir. 2023).
25. In order to make FAPE available to each eligible child with a disability, the special education and related services, supplementary aids and services, and other supports in the child's IEP must be designed to enable the child to advance appropriately toward attaining his or her annual IEP goals and to be involved in, and make progress in, the general education curriculum based on the State's academic content standards for the grade in which the child is enrolled. *Dear Colleague Letter*, 66 IDELR 227 (OSERS and OSEP 2015).
26. A school district has no obligation to maximize a student's potential or to provide a parents' preferred program. So long as the proposed IEP was reasonably calculated to provide an appropriate educational benefit, the district has satisfied its obligation to provide FAPE. *E.W.-G v. District of Columbia*, 83 IDLER 25 (D.D.C. 2023).
27. In this case, it is well documented that the District and School staff communicated with the Parent through email, texts and phone calls. Additionally, the IEP Team met on at least five occasions to discuss the Student's IEP and progress. The IEP was reviewed, and a new IEP was developed on November 30, 2023 in response to ongoing concerns with the Student's progress. It is well documented that the District was responsive to the Parent's concerns.
28. The timeframe of this review as stated by the Complaint is October 10, 2023 to April 1, 2024. This is approximately six months of the school year. The overwhelming majority of the goal data demonstrated the Student was making progress. This in conjunction with the Student's good grades in her regular education 5th grade classroom indicate the Student was successful. The Parent wanted more progress, but that is not the standard. The IDEA requires that the Student make appropriate progress according to her IEP, which she did. There is no violation.

Prior Written Notice (4)

29. Written notice that meets the requirements of 34 C.F.R. §300.503(b) must be given to the parents of a child with a disability a reasonable time before the public agency: (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 C.F.R. §300.503(a).
30. One of the hallmark procedural safeguards afforded to parents is the right to receive Prior Written Notice (PWN) a reasonable amount of time before a district proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of FAPE to a child. 34 C.F.R. §300.503. PWN must include all required components and be provided so that parents have enough time to fully consider the change and respond to the action before it is implemented. *Letter to Chandler*, 59 IDELR 110 (OSEP 2012).
31. The failure to provide PWN is a procedural error that may result in a denial of FAPE. Parents are guaranteed the right to participate in the special education process. 34 C.F.R. §§300.321, 300.322, 300.327, and 300.501. It is well-settled that procedural violations of the IDEA are only actionable to the extent that they impede the child's right to FAPE, significantly impede the parents' opportunity to participate in the decision-making process regarding the provision of FAPE or cause a deprivation of educational benefit. 20 U.S.C. § 1415(f)(3)(E)(ii); 34 C.F.R. § 300.513(a)(2); *Sytsema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).
32. In this case, throughout the file it is well documented the District issued PWN. In the two instances referenced by the Parent, October 20, 2023 and January 18, 2024, the District did not issue PWN. With regards to October 20, 2023, it is determined that this was a meeting in which the IEP discussed the Student's current progress monitoring reports. There were no decisions that were made during this session. Rather the IEP team continued to meet until ultimately a new IEP was developed on November 30, 2023. The stated purpose of the January 18, 2024 IEP team meeting was explained as another meeting to review the Student's progress data. However, when not all of the discussion was completed within the time period allotted for the conversation, the Parent asked for another meeting. The District refused to conduct additional meetings to discuss the Student's progress. Refusing to continue to meet about the Student's progress would not require a PWN. However, refusing to incorporate the Parent's multitude of suggestions would require PWN. Although the District provided a point-by-point response to the Parent's suggestions, this communication did not meet the standards

of prior written notice. It is determined that the District failed to issue PWN when responding to the Parent's January 18, 2024 requests. This resulted in a procedural violation.

Meeting Notice (5)

33. Districts must ensure that one or both parents of a student with a disability attend each IEP meeting or are afforded the opportunity to participate. 34 C.F.R. §300.322(a). Included as part of this duty, Districts must notify the parents about the meeting early enough to ensure they have the opportunity to attend. 34 C.F.R. §300.321(a)(1).
34. The IDEA requires that the LEA take steps to ensure that the parent(s) of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and scheduling the meeting at a mutually agreed on time and place. 34 C.F.R. §300.322(a). All IEP team meetings must be scheduled with parent input.
35. In this case, the District acknowledges that the Parent did not receive a Notice of Meeting for the November 30, 2023 IEP team meeting to review and revise the Student's IEP. However, it is clear the Parent knew the date and time of the meeting, understood the purpose of the meeting, and attended and participated in the development of the Student's November 30, 2023 IEP. This constitutes a procedural violation that did not interfere with the Complainant's right to participate in the IEP process consistent with the *Sytsema* standard articulated above.

Inspect and review records (6)

36. Under the IDEA, as outlined in 34 C.F.R. §300.613,
 - (a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with the request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§ 300.530 through 300.532, or resolution session pursuant to §300.510, **and in no case more than 45 days after the request has been made.** (Emphasis added).
 - (b) The right to inspect and review education records under this section includes
 - (1) the right to a response from the participating agency to reasonable requests for explanations and interpretation of records;
 - (2) The right to request that the agency provide copies of the records containing information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - (3) The right to have a representative of the parent inspect and review the records.

37. According to FERPA, *education records* mean those records that are: (1) Directly related to a student; and (2) Maintained by an educational agency or institution or by a party acting for the agency or institution. Record means any information recorded in any way including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. See 34 C.F.R. §99.3.
38. In this case, the District indicated that initially there was some confusion about what portion of raw data collected through the progress monitoring process was retained. However, the District acknowledged that even after it became aware this data was available, it delayed providing it to the Parent. Although, the District provided the requested progress monitoring information on April 2, 2024, via email to the Parent, this exceeded the timeline requirement outlined in 34 C.F.R. §300.613, which required the District to comply with the Parent’s January 5, 2024, request within 45 days. April 2, 2024 is beyond 45 days from January 5, 2024. The District is found in violation of not providing access to the Student’s records as required by 34 C.F.R. §300.613.

DECISION

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

1. Failed to properly implement Student’s IEP in violation of 34 C.F.R. § 300.323, specifically by:
 - a. Failing to provide 150 minutes per week of specialized instruction in reading and writing, outside the general education classroom, required by Student’s IEP, from October 10, 2023, to November 30, 2023;
 - b. Failing to provide 100 minutes of specialized instruction in reading, writing, and work completion by a paraprofessional under the direct supervision of a special education teacher, inside the general education classroom, in a small group setting, as required by Student’s IEP, from October 10, 2023 to November 30, 2023;

CDE finds a violation. Due to a schedule change the Student received 15 minutes per week fewer minutes of specialized instruction between October 10, 2023 to November 30, 2023.

CDE finds no violation. The paraprofessional was under the direct supervision of the special education teacher and provided services in the general education classroom as required by the Student’s IEP.

- c. Failing to educate Student in the least restrictive environment (“LRE”) required by her IEP by moving Student from the general education classroom into the hallway for 30 minutes per day from October 10, 2023 to April 1, 2024;

CDE finds a violation. The District acknowledged that on approximately four occasions the Student received services for up to 25 minutes in the hallway.

- d. Failing to provide 15-minute mini-lessons outside the general education classroom as required by Student’s IEP, from October 10, 2023 to November 30, 2023;

CDE finds no violation. The mini-lessons were not added to the IEP until the November 30, 2023 IEP was finalized.

- e. Failing to provide the accommodations required by Student’s IEP—highlighting instructions or key terms, highlighting the left margin, using graphic organizers, and copies of notes—from October 10, 2023 to April 1, 2024; and

CDE finds no violation. The District provided accommodations required by the Student’s IEP.

- f. Failing to properly monitor Student’s progress on annual IEP goals and to provide Parent with periodic reports on Student’s progress as required by Student’s IEP from October 10, 2023 to April 1, 2024.

CDE finds no violation. The District monitored the Students’ progress and provided periodic reports to the Parent.

2. Determined Student’s educational placement from October 10, 2023 to April 1, 2024—specifically, by moving Student from the general education classroom into the hallway for 30 minutes per day—outside of a properly convened IEP Team meeting, in violation of 34 C.F.R. §§ 300.116(a), 300.327, and 300.501(c) and ECEA Rule 4.03(8).

CDE finds a violation. The District acknowledged that on approximately four occasions the Student received services for up to 25 minutes in the hallway.

3. Failed to convene an IEP Team meeting to review and, as appropriate, revise Student’s IEP to address her lack of progress on her IEP’s annual goals from January 18, 2024 to April 1, 2024, in violation of 34 C.F.R. § 300.324(b).

CDE finds no violation. The IEP Team had previously met to review the Student’s goal progress. There was no additional progress data to review.

4. Failed to provide compliant prior written notice of proposed or refused actions regarding the provision of FAPE arising from an October 20, 2023 IEP Team meeting and a January 18, 2024 IEP Team meeting, in violation of 34 C.F.R. § 300.503.

CDE finds a violation. The District failed to provide the Parent prior written notice in response to the Parent’s requests for modifications to the Student’s IEP that resulted from January 18, 2024 IEP meeting.

5. Failed to provide Parent with proper notice of an IEP Team meeting on November 30, 2023, in violation of 34 C.F.R. § 300.322(a)-(b).

CDE finds a violation. Parent was not provided a meeting notice specifically inviting her to the IEP Team meeting. This resulted in a procedural violation.

6. Failed to permit Parent to inspect and review education records relating to Student after Parent's request on January 5, 2024, in violation of 34 C.F.R. §§ 300.501 and 300.613.

CDE finds a violation. The District failed to provide the Parent access to the Student's records when requested on January 5, 2024.

CORRECTIVE ACTION PLAN

- a. By **Monday, June 17, 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.
- b. Assistant Superintendent of Special Education, Special Education Director, Executive Director, School Assistant Principal, Special Education Teacher, General Education Teacher, Speech Language Pathologist, and Paraprofessional must review this Decision. This review must occur no later than **Monday, June 24, 2024**. A signed assurance that this Decision has been reviewed must be completed and provided to the CDE not later than **Monday, July 1, 2024**.

Please submit the documentation detailed above to CDE as follows:

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

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

CONCLUSION

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

Dated this 31st day of May 2024.



Stephanie Weaver
CDE Appointed Investigator