

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

State Complaint SC2025-541
Thompson School District

DECISION

INTRODUCTION

On April 8, 2025, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against Thompson School District (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified two allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

The CDE’s goal in state complaint investigations is to improve outcomes for students with disabilities and promote positive parent-school partnerships. A written final decision serves to identify areas for professional growth, provide guidance for implementing IDEA requirements, and draw on all available resources to enhance the quality and effectiveness of special education services.

RELEVANT TIME PERIOD

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after April 8, 2024. Information prior to that date may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

The Complaint raises the following allegations subject to the CDE’s jurisdiction under 34 C.F.R. § 300.153(b)² of the IDEA:

1. District did not review and, as appropriate, revise Student’s Individualized Education Program (“IEP”) from September 2024 through present to address information provided

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.

² The CDE’s state complaint investigation determines if District complied with the IDEA, and if not, whether the noncompliance results in a denial of a free appropriate public education (“FAPE”). 34 C.F.R. §§ 300.17, 300.101, 300.151-300.153.

by Parent, specifically related to concerns with bullying, as required by 34 C.F.R. § 300.324(b)(ii)(C).

2. District did not fully implement Student’s IEP from April 8, 2024 through the end of the 2023-2024 academic year because it:
 - a. Did not make the IEP accessible to teachers or service providers responsible for its implementation, as required by 34 C.F.R. § 300.323(d);
 - b. Did not provide the services listed in the IEP—specifically direct instruction in self-advocacy—as required by 34 C.F.R. § 300.323(c); and
 - c. Did not provide the accommodations listed in the IEP—specifically the use of Livescribe handwriting-to-text conversion, the use of text-to-speech technology for reading assignments, and the use of a calculator—as required by 34 C.F.R. § 300.323(c).

FINDINGS OF FACT

After thorough and careful analysis of the entire Record,³ the CDE makes the following findings of fact (“FF”):

A. Background

1. Student is thirteen years old and attends a District middle school (“School”). *Exhibit A*, p. 21. He qualifies for special education and related services under the disability category of Specific Learning Disability. *Id.*
2. Student is gentle, soft-spoken, and empathetic. *Interviews with Parent, Student’s special education teacher (“Special Education Teacher”), School’s principal (“Principal”), Student’s seventh-grade English and language arts teacher (“ELA Teacher”), and Student’s seventh-grade math teacher (“Math Teacher”).* He enjoys studying history, playing chess, and has a keen interest in dinosaurs and paleontology. *Id.*
3. This investigation involves the review, revision, and implementation of an IEP dated April 5, 2024 (“the IEP”). *Exhibit A*, pp. 21-49. The IEP was based on an evaluation completed on April 25, 2023. *Id.* at p. 21.

B. The IEP

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

4. The IEP documents Student's present levels of educational performance, describing his strengths and interests, the results of recent evaluations and assessments, and the input of his teachers. *Id.* at pp. 24-33.
5. The IEP describes Student's needs and the impact of his disability, noting that his specific learning disability affects his academics in the areas of reading comprehension, writing, self-advocacy, and math skills. *Id.* at p. 33.
6. The IEP contains Student input, as well as an extensive narrative section describing Parent's input. *Id.* at pp. 34-36.
7. The IEP's Consideration of Special Factors section notes that Student needs assistive technology including speech-to-text, text-to-speech, and a calculator, and that Student requires a health care plan. *Id.* at pp. 36-37.
8. The IEP contains four goals, one pertaining to each of reading comprehension, written expression, math, and self-advocacy. *Id.* at pp. 39-43.
9. The IEP identifies twenty-six accommodations as necessary for Student to access general education. *Id.* at p. 44. Relevant to this investigation, two of these accommodations read:
 - "[Student] should have access to text-to-speech software, speech-to-text software, and books with audio to help the student to see and hear the words while reading."
 - "Use graphs, math charts or calculator for assignment and criterion-referenced based tests and other visual aids and explain out loud what they mean, especially with new concepts."
- Id.* The IEP does not require the use of a Livescribe pen⁴ as an accommodation. *Id.*
10. The IEP describes 1,000 minutes per month of direct Resource services to be provided to Student. *Id.* at p. 27. The Service Delivery Statement describes that these services "will be provided in a push in and/or pull out model depending on student's needs. The student will be supported in Literacy (Reading Comprehension and Written Expression), support self-advocacy and Math in the general education classroom." *Id.*
11. The IEP states that the IEP team determined that it was appropriate that Student be in the general education classroom at least 80% of the time. *Id.* at pp. 47-48.

C. District's Practices, Procedures and Policies

⁴ One of Student's previous IEPs, dated May 4, 2023, contains an accommodation which reads "Record oral responses on Livescribe pen or other assistive technology." *Exhibit A*, p. 16. Because this investigation concerns alleged noncompliance limited to events occurring after April 8, 2024, this accommodation was not in place during the events described in this investigation.

12. District's director of special education ("Special Education Director") described District's responsibilities under the IDEA, stating that District staff and teachers must be knowledgeable regarding their individual duties as part of the special education process. *Interview with Special Education Director.*
13. To accomplish this, District provides regular professional development to staff members to ensure that they are up to date on special education issues. *Id.* Additionally, District's special education coordinators meet weekly with building-level staff to give mini-lectures on various topics related to special education. *Id.*
14. Special Education Director stated that District has a responsibility to review and revise a student's IEP both on a periodic basis and in response to any new concerns that may arise between annual IEP meetings. *Id.*
15. Special Education Director stated that in some cases, a pattern of bullying that denies a student the opportunity to access their education could trigger the District's obligation to convene an IEP team meeting to review and revise the IEP. *Id.* Where peer conflicts are isolated and do not impact the student's ability to learn, they can be resolved through other resources such as the District's disciplinary procedures. *Id.*
16. Special Education Director stated that District has a responsibility to ensure that student IEPs are implemented with fidelity. *Id.* As part of this responsibility, District expects that general education teachers tasked with implementing components of the IEP be made aware of their specific duties, both through consultation with the student's case manager and through the provision of IEP snapshots which are documents which summarize a student's goals, accommodations and services for teacher reference. *Id.*

D. IEP Implementation: Accessibility and Responsibilities

17. Special Education teacher was Student's case manager at the time of the development of the IEP in April 2024. *Interview with Special Education Teacher; Exhibit A, pp. 48-49.*
18. Following the meeting in which the IEP was developed, Special Education Teacher contacted Student's general education teachers, including ELA Teacher and Math Teacher, by email, notifying them of the new IEP. *Interviews with Special Education Teacher, ELA Teacher, and Math Teacher.*
19. Special Education Teacher provided Student's general education teachers a copy of an IEP "Student Snapshot," which included Student's goals, service minutes, and a complete list of Student's accommodations. *CDE Exhibit 2.*
20. Special Education Teacher conducted weekly team meetings with Student's general education teachers to review Student's progress toward goals and answer questions regarding Student's IEP. *Interview with Special Education Teacher.*

21. ELA Teacher and Math Teacher demonstrated familiarity with and understanding of Student's accommodations, describing in detail the circumstances in which they were to be implemented. *Interviews with ELA Teacher and Math Teacher.*
22. Special Education Teacher stated that she was primarily responsible for the delivery of Student's IEP services during the period of time relevant to this investigation. *Interview with Special Education Teacher.*
23. Special Education Teacher demonstrated familiarity with Student's direct instruction services, describing with particularity her responsibility to provide direct instruction in reading, mathematics, and self-advocacy. *Id.*

E. IEP Implementation: Direct Instruction

24. The IEP's Service Delivery Statement describes Student's direct instruction minutes, saying "[t]he student will be supported in Literacy (Reading Comprehension and Written Expression), support self-advocacy and Math in the general education classroom." *Exhibit A*, p. 27.
25. Special Education Teacher described her work with Student on self-advocacy during the 2023-2024 school year, stating that she worked directly with Student to help him come up with questions to ask his general education teachers when he needs assistance during class, and develop strategies for asking those questions. *Interview with Special Education Teacher.*
26. Special Education Teacher supported Student directly in general education classes, assisting him in asking for help from the teacher during and after class. *Interviews with Special Education Teacher and ELA Teacher.*
27. When Special Education Teacher was not present with Student in a general education class, she sent a form to the relevant general education teacher, which asked the teacher to note whether Student raised his hand or asked for assistance during the class period, and providing examples of questions Student might try to ask, such as "Can you repeat the instructions?" and "Can you help me with this problem?" *Interviews with Special Education Teacher and Math Teacher; CDE Exhibit 1.*
28. Special Education Teacher collected information from these forms and compiled it into a spreadsheet where she tracked Student's work on this skill. *Interview with Special Education Teacher; Exhibit N*, p. 7.
29. Based on these facts, the CDE finds that District provided Student's direct instruction services related to self-advocacy in fidelity to the IEP.

F. IEP Implementation: Accommodations

30. Parent raised concerns regarding three of Student's IEP accommodations: the use of a Livescribe pen, text-to-speech technology for reading assignments, and a calculator for math assignments. *Complaint*, p. 14; *Interview with Parent*.

Use of a Livescribe Pen

31. Parent stated that Student has used a Livescribe smart pen to take notes in classes. *Interview with Parent*.

32. This device has two primary features. See *CDE Exhibit 4*. First, when used as a pen to handwrite notes, it can translate the user's handwritten notes into digital text. *Id.* Second, it contains a microphone which can record and transcribe lectures, meetings, or the user's speech into text. *Id.*

33. Although Student's May 4, 2023 IEP contained an accommodation reading "Record oral responses on Livescribe pen or other assistive technology," Student's April 5, 2024 IEP did not contain any accommodation referencing the use of a Livescribe pen. Compare *Exhibit A*, p. 16, to *Exhibit A*, p. 44.

34. Based on these facts, the CDE finds that there was no IEP accommodation requiring that Student use a Livescribe pen⁵ from April 8, 2024 through the end of the 2023-2024 school year.

Use of Text-to-Speech technology

35. The IEP contains an accommodation which reads: "[Student] should have access to text-to-speech software, speech-to-text software, and books with audio to help the student to see and hear the words while reading." *Id.* at p. 44.

36. Parent stated that Student is best able to learn when he can simultaneously see and hear a reading assignment. *Interview with Parent*.

37. Every student at School is provided a personal Chromebook to be used in classes. *Interviews with Special Education Teacher, ELA Teacher, and Math Teacher*. Student's Chromebook featured integrated software which allowed Student to have text on the device read to him through a pair of headphones or a headset. *Interviews with Parent and ELA Teacher*.

⁵ Despite the fact that Student's accommodations did not require the use of a Livescribe pen or other assistive technology to record oral responses, Special Education Teacher stated that Student's Chromebook, which was regularly available to him during classes, contained a program allowing him to dictate oral responses into text format, and that he regularly used a headset designed to allow him to speak responses into his computer. *Interview with Special Education Teacher*.

38. ELA Teacher stated that when Student did not have headphones or a headset with him, headphones were freely available at any time from a “student center” in her classroom, a table with various supplies students could borrow as needed. *Interview with ELA Teacher.*
39. ELA Teacher stated that when curriculum material was read in class, she would either read the text aloud for the class, choose a student to read aloud, or play the audio recording of that text made available by the publisher. *Id.* She further stated that Student had access to these audio recordings via the curriculum publisher’s web portal, through which all students accessed curriculum materials. *Id.*
40. ELA Teacher described regular silent reading time in which students were encouraged to read books of their own choosing. *Id.* She stated that Student would bring his own audiobooks and physical books for this activity. *Id.*
41. Parent provided seven videos demonstrating her concerns with the text-to-speech software included with Student’s Chromebook. *Exhibits 7.1 – 7.7.* For example, in one video, when the text reader reached the end of a PDF page, it then read the footnote information and paragraph numbers rather than proceeding directly to the next page. *Exhibit 7.1.* In other videos, the text reader recited a highlighted sentence from a slideshow presentation and then continued to read out the filename of images included on the same slide. *Exhibits 7.3 and 7.4.* The CDE finds that the software did successfully read the highlighted text.
42. Based on these facts, the CDE finds that District made this accommodation available to Student consistent with the IEP from April 8, 2024 through the end of the 2023-2024 school year.

Use of a Calculator

43. The IEP contains an accommodation which reads: “Use graphs, math charts or calculator for assignment and criterion-referenced based tests and other visual aids and explain out loud what they mean, especially with new concepts.” *Exhibit A*, p. 44 (emphasis added).
44. Parent stated that she was concerned that Student was not always able to access a calculator while doing math schoolwork. *Interview with Parent.*
45. Math Teacher stated that Student was able to self-select among several options for calculators when working on assignments. *Interview with Math Teacher.*
46. Physical calculators were made available to Students at a table at the back of the classroom, and students were encouraged to borrow them during class. *Id.* Following the disappearance of some calculators, Math Teacher kept the calculators at her desk, and students were free to check them out from her. *Id.*
47. When working on math assignments through the online curriculum, teachers had access to a setting for individual students to allow the use of a calculator within the curriculum program.

Id. Math Teacher stated that she kept that setting activated for all of Student’s assignments. *Id.*

48. Parent selected a calculator tool from a website, and bookmarked it on Student’s computer. *Interviews with Parent and Math Teacher.* Student was able to access this calculator website during assignments. *Id.* Parent expressed concern, however, that Student would have to navigate away from an assignment to access the calculator website. *Interview with Parent.*
49. Based on these facts, the CDE finds that District made this accommodation available to Student consistent with the IEP from April 8, 2024 through the end of the 2023-2024 school year.

G. Peer Conflict during the 2024-2025 School Year

50. Parent raised concerns regarding a series of incidents involving Student during the 2024-2025 school year. *Interview with Parent.*

August 29, 2024 Incident

51. On August 29, 2024, during physical education class, Student and peers were playing “gaga ball,” a variant of dodgeball in which players try to hit each other with a soft ball by striking the ball with their hands. *Interviews with Parent and Principal.* In short succession, Student and a classmate each caused a ball to strike another peer in the face and shoulder, angering that peer. *Interview with Principal; Exhibit G.* That peer pursued Student, placing his hands around Student’s neck. *Id.* In response, the first classmate pushed that peer, resulting in a fight between the pair. *Id.* School staff separated the three students, and Student was taken to the nurse’s office for assessment, where he was observed to have bruise marks on his neck. *Interview with Principal; Exhibit G; Exhibit M, p. 26.*
52. Student was taken home by Parent that afternoon but returned to school the next day. *Interview with Parent; Exhibit E, p. 14.* Student attended school regularly following this incident. *Exhibit E, p. 14.*
53. Following this incident, School’s dean of students asked Special Education Teacher to meet with Student and assist him in writing a statement about the incident. *Interviews with Principal and Special Education Teacher; Exhibit M, p. 26.*
54. Principal investigated this incident, reviewing statements from Student and the two peers. *Interview with Principal.* Following the incident, the two peers were disciplined due to aggressive behavior. *Interview with Principal; Exhibit M, p. 26.* Since this time, no further conflicts have been reported between Student and either peer. *Id.*

September 20, 2024 Incident

55. On September 20, 2024, during the lunch recess period, Student was playing gaga ball with another peer who was not involved in the August 29 incident. *Interview with Principal; Exhibit G; Exhibit M*, p. 26. During the game, the peer stumbled and scraped his knuckle on the ground. *Id.* At the conclusion of the game, the peer approached Student, and wiped his hand on Student's face, transferring blood and sweat. *Id.*
56. After the recess, Special Education Teacher noticed that Student was upset, and spoke to him. *Interviews with Special Education Teacher and Principal; Exhibit M*, p. 26. He reported the incident, and Special Education Teacher escorted him to the nurse's office. *Id.* The health office assistant inspected and cleaned Student's face, finding no injury. *Exhibit G; Exhibit M*, p. 26.
57. Parent checked Student out of school that afternoon and took him to the doctor to request blood testing, which came back negative for bloodborne pathogens. *Interview with Parent.* Student returned to school the next school day and attended regularly following this incident. *Exhibit E*, p. 14.
58. Following the incident, Principal investigated, speaking directly to both Student and the peer to determine what had happened. *Interview with Principal.* Principal told the peer that Student was upset by the incident, and asked the peer to apologize to Student. *Id.*
59. Parent asked that the peer no longer be seated near Student in math class. *Exhibit M*, p. 27. The seating chart for that class was altered so that they no longer sat near one another. *Id.*
60. About a month after this incident, Student watched a television medical drama which featured a plot point involving the transmission of a virus through contact with blood. *Interview with Parent; Exhibit M*, pp. 27, 40; *Reply*, p. 17. Student became anxious after watching this program, and missed school on October 24 and 28, 2024, his first full-day absences of the school year. *Interview with Parent; Exhibit E*, p. 14.
61. On the morning of October 28, 2024, upon learning that Student would be withheld from school that day, Special Education Teacher emailed Student to ask about his concerns and to offer support. *Exhibit J*, p. 257; *Interview with Special Education Teacher.* She recommended that Student meet with her and the school counselor ("Counselor") to discuss his feelings and asked if there were concerns in the school environment that made him feel unsafe. *Id.* She also proposed that if Student did not feel safe during the lunch recess he could "have lunch with me for a while to make sure you are safe." *Id.*
62. Student returned to school the next day, and met that afternoon with Special Education Teacher and Counselor. *Interview with Special Education Teacher; Exhibit M*, p. 39.
63. During that meeting, they reviewed Student's daily schedule in detail—including each class, each transition between classes, recess, lunch, and entry to and exit from School—in order

to identify situations in which Student might not feel comfortable. *Id.* Counselor reviewed strategies Student might use during stressful situations to feel safer. *Id.*

64. Following the meeting, Special Education Teacher and Counselor established a support plan for Student which included the following components:

- Student could have lunch in Special Education Teacher's office, and if he chose, bring a friend with him.
- Student could ask Counselor to escort him from class to class and be escorted by Special Education Teacher from lunch to his next class.
- Student was offered an additional restorative conversation with the peer.
- Student would be excused from health class discussions about communicable diseases.

Id.

65. At the end of this meeting, Student stated that he felt better about his concerns. *Id.*

66. Student regularly ate lunch with a friend in Special Education Teacher's office, and made use of escorts to class for a short period of time following this meeting. *Id.* Student opted not to participate in a restorative conversation with the peer. *Id.*

Concerns Regarding Head Injuries

67. On September 30, 2024, Student was hit on the head by a volleyball during lunch, and reported that "his head is a bit fuzzy and his whole head hurts." *Exhibit 1*, p. 5. He was taken to the nurse's office, assessed for a head injury, given an ice pack, and encouraged to rest. *Id.*

68. School notified Parent of this incident. *Interview with Parent.* She had Student assessed for a head injury by Student's doctor and did not find evidence of a concussion. *Id.* She stated that after speaking with Student, she had no reason to believe that this incident involved any peer with which Student had previously had conflict, or that it was a result of any intentional action. *Id.*

69. On November 22, 2024, during a game in PE class, Student and a peer collided, with the peer's knee striking the left side of Student's head. *Exhibit 1*, p. 6. Student was taken to the nurse's office, assessed for a head injury, was given an ice pack, and was encouraged to rest. *Id.*

70. School notified Parent of this incident. *Interview with Parent.* She had Student assessed for a head injury by Student's doctor and stated that the doctor found it probable that Student had a concussion. *Id.* As with the September 30, 2024 incident, after speaking with Student,

Parent had no reason to believe that this incident involved any peer with which Student had previously had conflict, or that it was the result of any intentional action. *Id.*

71. Principal stated that because there was no indication that either of these incidents stemmed from intentional action or aggression, there was no disciplinary report or investigation. *Interview with Principal.*

Reporting of Graffiti

72. On November 13, 2024, Parent stated to Principal that Student had seen graffiti on School grounds, including a swastika, but that Student did not want to report it himself. *Interviews with Parent and Principal; Complaint*, p. 6. Principal stated that this report, while concerning, did not include enough specific information for School staff to locate and remove the graffiti. *Interview with Principal.*
73. On November 15, 2024, Principal sought additional clarification on the reported location of the graffiti. *Interview with Principal; Complaint*, p. 6. Upon learning the location of the graffiti, Principal instructed School's grounds crew to ensure that the graffiti was painted over that day. *Interview with Principal.*
74. Principal stated that although he investigated this incident, he was unable to determine who had created the graffiti, and thus was unable to administer discipline. *Id.*
75. Although Student was upset by the presence of the graffiti, neither Parent nor Student had reason to believe that the graffiti was specifically targeted at Student. *Interview with Parent.*
76. Following this interaction, Parent filed a complaint with the U.S. Department of Education's Office of Civil Rights ("OCR") alleging harassment of students based on national origin. *Exhibit 10.15.*

December 16, 2024 incident

77. Parent stated that on or around December 16, 2024, Student got into an argument with one of his classmates ("Peer 4"). *Interview with Parent; Exhibit J*, p. 241. According to Parent, Peer 4 was waving his finger at Student's face, Student grabbed Peer 4's hand, and Peer 4 bit Student's finger. *Id.*
78. At the time, Student did not report this incident to Parent or any member of school staff. *Id.* Parent sent an email to Special Education Teacher on January 3, 2025, indicating that Parent had just learned about this incident from Student. *Exhibit J*, p. 241. On January 10, 2025, Parent emailed Principal and mentioned the biting incident. *Exhibit 3.3.*
79. Principal stated that when he learned about this incident from Parent, he reached out to Parent to get her permission to speak to Student about the incident. *Interview with Principal.* Following this, he spoke with both Student and Peer 4 about what happened. *Id.*

80. Student told Principal that the incident was not a big deal, and that he did not want to draw any attention to it. *Id.* Peer 4 likewise downplayed the seriousness of the incident. *Id.*
81. Principal determined that the incident did not warrant disciplinary action but stated that he checked in with Student several times over the following week to ensure that he was doing well. *Id.*

Student Seating in Math Class

82. In or around January 2025, the peer who had been involved in the September 2024 hand-wiping incident asked Student if he could join Student's small group for an upcoming group project. *Response*, p. 10; *Reply*, p. 21. According to Parent, Student "probably said it was ok," and the peer sat near Student to work on the project. *Exhibit J*, pp. 276-277.
83. On February 3, 2025, Parent emailed District's executive director of student support services ("Student Support Director") about the seating arrangement, accused District of retaliating against her for her earlier OCR complaint, and stated that she would remove Student from school that day. *Exhibit 3.4*.
84. Parent checked Student out of school at 12:11 pm that day, and Student did not return to school on any of the following three school days from February 4 through February 6. *Exhibit E*, p. 13. Student was late to school on February 7, 2025 and attended a full day the following Monday, February 10, but did not attend school again until February 17. *Id.*
85. Following the first absence, Special Education Teacher emailed Student to ask if he was feeling okay, to which Student replied "yeah" on February 7, four days later. *Exhibit J*, p. 262. On February 12, Special Education Teacher emailed again, asking again how he was doing and saying that she misses him when he is not in school. *Id.* at p. 263. When Student responded saying he was fine, Special Education Teacher asked if Student would share what he is feeling and if there is anything she could do to help. *Id.*
86. On February 6, 2025, Special Education Teacher and Parent agreed over email that Student's schedule would be changed so that he was no longer in the same math class as the peer. *Id.* at p. 277.
87. There were no reported conflicts or disciplinary incidents between Student and the peer during the time they were seated near one another. *Interview with Principal; Response*, p. 16.

H. The 2025 IEP Review Meeting

88. On March 13, 2025, Special Education Teacher sent an email to Parent proposing an IEP meeting for April 3, 2025, and attached a Notice of Meeting. *Exhibit J*, p. 215.
89. Special Education Teacher and Parent collaborated on Student's IEP draft over the course of March 2025, with Special Education Teacher sending Parent draft IEPs on March 24, March

27, and March 31. *Id.* at 221, 225-226. Special Education Teacher and Parent met on March 28, 2025 to discuss the draft, and Parent sent a document to Special Education Teacher with proposed parent input. *Id.* at 171, 224.

90. However, during that month, Parent's relationship with District became increasingly fraught. *Interviews with Parent and Special Education Director.*
91. On March 31, 2025, District's executive director of secondary education ("Secondary Education Director") sent Parent a letter stating that in light of a pattern of "false and extremely damaging statements" about Principal, District would be instituting a communication plan under which email communication between Parent and School personnel would be sent to Special Education Director, Student Support Director, and Student Support Director's executive assistant ("Executive Assistant") before being relayed to the intended recipient. *Exhibit 1*, pp. 7-8.
92. That evening, Parent sent an email to Secondary Education Director, Special Education Director, Student Services Director, Executive Assistant, Principal, and the executive director of elementary education, stating of the April 3 IEP meeting, "I will cancel it on my end until I hear confirmation and until you specify in writing how my meaningful parent participation is not violated by this and how you intend to ensure safety for my child and adhere to his health plan." *Exhibit J*, p. 123.
93. Secondary Education Director replied, asking for Special Education Director or Student Support Director to weigh in. *Id.* at p. 122. Student Services Director sent an email stating that the April 3 IEP meeting would proceed as scheduled, that Parent would be free to attend and participate in the meeting and to ask questions both prior to and after the meeting, and that the communication plan would not delay or prevent the transmission of urgent health-related information. *Id.* at p. 121.
94. Parent sent two emails in short succession: one seemingly drafted prior to Student Support Director's message and one drafted after. *Id.* at pp. 116-120. In the first email, Parent stated "I have removed the IEP meeting from my calendar and you can reschedule it when you figure it out," and added that she would not send Student back to School while the communication plan remained in place. *Id.* at p. 120. In the second email, Parent acknowledged Student Services Director's message but stated that "this does not meet the standard for meaningful participation," and maintained that she would not attend the IEP meeting or allow Student to attend School. *Id.* at p. 116.
95. Parent emailed again the next morning stating, "Your communication plan effectively cancelled the previously scheduled IEP for April 3rd" and asking the District to confirm that Student's absences would be marked as excused while she withheld him from School. *Id.* at p. 113.

96. On April 1, 2025, Special Education Teacher sent a message, relayed by Special Education Director, noting that the IEP meeting would still occur on April 3 as scheduled. *Id.* at p. 88.
97. On April 3, 2025, Parent did not attend Student's IEP meeting. *Interviews with Special Education Director, Special Education Teacher, and Principal.* The other members of the IEP team chose not to proceed without Parent. *Id.*
98. That day, Parent sent a list of comments on the most recent IEP draft she had received. *Exhibit J*, pp. 96-97. Twenty-five minutes later, Executive Assistant forwarded those comments to Special Education Teacher. *Id.* at p. 96. The next day, Special Education Teacher sent additional questions for Parent, which were forwarded to Parent. *Id.* Exchanges of information regarding the draft IEPs continued in this way over the following week. *See, e.g., Id.* at 55-77.
99. On April 4, 2025, Special Education Director sent an email to Parent proposing a new IEP meeting on April 18, 2025. *Id.* at p. 88. Parent responded, stating that she was unavailable that morning. *Id.*
100. On April 15, 2025, Parent and District agreed to schedule a facilitated IEP meeting on May 9, 2025. *Id.* at pp. 40-41.
101. On April 23, 2025, District sent Parent a Prior Written Notice and Consent for Evaluation, proposing to evaluate Student's social-emotional functioning considering Parent's concerns. *Id.* at pp. 284-285. On May 4, 2025, Parent signed the form, consenting to the evaluation. *CDE Exhibit 3.*
102. On May 9, 2025, a properly constituted IEP team, including Parent, met and participated in a facilitated IEP meeting, developing a new IEP for Student. *CDE Exhibits 5, 6, and 7.* The team agreed to reconvene following the completion of the social-emotional evaluation to update a self-determination goal for Student. *CDE Exhibit 6.*
103. Student has not attended School since the implementation of the communication plan on March 31, 2025. *Exhibit E*, p. 12.

I. Student's Performance during the 2024-2025 School Year

104. Student's grades during the first semester of the 2024-2025 school year included four As, four Bs, and one C. *Id.* at p. 7.
105. Student's grades, as of April 2025, during the second semester of the 2024-2025 school year included three As, five Bs, and one C. *Id.*
106. As of March 6, 2025, Student made progress on each of his four annual IEP goals and met his reading comprehension goal. *Exhibit F*, pp. 5-6.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District responded to Parent's concerns regarding alleged bullying consistent with 34 C.F.R. § 300.324(b). District complied with IDEA.

Parent's concern is that District did not adequately consider or address information regarding her allegations that Student was bullied at School. (FF # 50.)

A. Legal Obligation to Review and Revise IEPs

The IDEA requires school districts to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. ex rel Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 399. The IDEA does not promise a particular educational or functional outcome for a student with a disability, but it does provide a process for reviewing an IEP to assess achievement and revising the program and services, as necessary, to address a lack of expected progress or changed needs. *Id.* at 400. To that end, school districts have an affirmative duty to review and revise a student's IEP at least annually. 34 C.F.R. § 300.324(b). However, the IDEA's procedures contemplate that a student's IEP may need to be reviewed and revised more frequently to address any lack of expected progress toward the annual goals, the results of any reevaluation, "[i]nformation about the child provided to, or by, the parents," "[t]he child's anticipated needs," or other matters. *Id.*; see *Endrew F.*, 580 U.S. at 400.

The U.S. Department of Education confirmed that an "IEP Team also may meet periodically throughout the course of the school year, if circumstances warrant it." *Questions and Answers on Endrew F.*, 71 IDELR 68 (EDU 2017). This includes monitoring and revising an IEP as necessary, particularly if appropriate progress is not occurring, to ensure the goals remain individualized and appropriately ambitious for the child. *Id.*

B. Bullying Under the IDEA

Under Colorado law, bullying is defined as "[a]ny written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student." C.R.S. 22-32-109.1(1)(b). According to the U.S. Department of Education, "any bullying of a student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of FAPE under the IDEA that must be remedied." *Dear Colleague Letter*, 61 IDELR 263 (OSERS/OSEP 2013). The U.S. Department of Education characterizes bullying as "aggression used within a relationship where the aggressor(s) has more real or perceived power than the target, and the aggression is repeated, or has the potential to be repeated, over time." *Id.* Bullying can take a variety of forms, including physical, verbal, emotional, or social behaviors. *Id.*

School districts “have an obligation to ensure that a student with a disability who is the target of bullying behavior continues to receive a FAPE in accordance with his or her IEP.” *Id.* In response to bullying, a school district may convene the student’s IEP team to “determine whether, as a result of the effects of bullying, the student’s needs have changed such that the IEP is no longer designed to provide meaningful educational benefit.” *Id.*

C. Student’s Experiences During the 2024-2025 School Year

Here, Parent raised concerns about a series of events involving Student during eighth grade year. (FF # 50.) On August 29, 2024, Student was involved in a conflict with a peer in which that peer placed his hands around Student’s neck. (FF # 51.) On September 20, 2024, another peer wiped blood and sweat on Student’s face. (FF # 55.) On September 30, 2024 and November 22, 2024, Student experienced head injuries that were the result of games played at recess or PE class, and not the result of aggression by other students. (FF #s 67-71.) In November 2024, Student observed hateful graffiti on school grounds that, although understandably upsetting, was not directed toward Student. (FF # 72.) On December 16, 2024, Student was involved in a conflict with another peer in which that peer bit Student’s finger, though this was not reported by Parent to School until the following semester. (FF # 77.) Finally, in early 2025, a peer that had previously been involved in a conflict with Student sat near Student, with Student’s consent, while working on a group project. (FF #s 82, 87.)

As a primary matter, the CDE finds that these incidents, whether taken individually or together, do not constitute bullying as defined by Colorado law and federal guidance. With respect to the head injury, the graffiti, and the peer being seated near Student, the Record simply does not demonstrate that there was any aggression directed toward Student. (FF #s 67-75, 82-87.) With respect to the incidents on August 29, 2024, September 20, 2024 and December 16, 2024, although each involved a different peer demonstrating aggression toward Student, the Record does not show a power imbalance between the students involved, nor does it show that this aggression was repeated over time, as each incident involved a different peer. (FF #s 51-54.)

Nevertheless, Principal took steps to investigate each incident involving aggression, and took corrective, disciplinary, and restorative actions as appropriate to each. (FF #s 54, 58-59, 79-81.) When, about a month after the September 20, 2024 incident, Student began to feel anxious regarding the incident, Special Education Teacher and Counselor worked with Student to develop a support plan to ensure that he felt safe in the school environment. (FF #s 61-66.)

In addition, Student did not demonstrate signs that showed that these incidents were affecting his ability to receive a FAPE. Student received good grades in both semesters of the 2024-2025 school year, and made progress on his four annual IEP goals. (FF #s 104-106.)

Student did, however, demonstrate a pattern of absenteeism. (FF #s 60, 84-85, 103.) Although absenteeism might indicate a need for review and revision of the IEP, the context of Student’s absences is relevant. Student attended school regularly following incidents involving peer conflict. (FF #s 54, 57.) Although Student missed significant time from school following Parent’s

discovery that the peer sat near Student in class, these absences immediately followed Parent's indication that she would withhold Student from School due to perceived retaliation against Parent. (FF #s 83-85.) Likewise, following Parent's repeated emails indicating that she would withhold Student from School because of the implementation of District's communication plan, Student did not attend School for the remainder of the school year. (FF #s 94, 95, 103.)

Finally, District did seek to review and revise Student's IEP through an IEP meeting, eventually resulting in a facilitated IEP meeting which took place May 9, 2025. (FF #s 88-102.) Moreover, considering parent's concerns, District sought and obtained consent to evaluate Student's social-emotional needs, and will address the results of that evaluation at a future meeting. (FF #s 101-102.)

For these reasons, the CDE finds and concludes that District appropriately responded to Parent's concerns regarding Student, in compliance with 34 C.F.R. § 300.324(b)(ii)(C).

Conclusion to Allegation No. 2: District implemented Student's IEP from April 8, 2024 through the end of the 2023-2024 school year, consistent with 34 C.F.R. § 300.323. District complied with the IDEA.

Parent's concern is that Student's direct instruction in self-advocacy, as well as three IEP accommodations, were not provided to Student. (FF #s 24, 30.)

A. IEP Implementation: Legal Requirements

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." *Endrew 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 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.* § 300.323(c)(2). To satisfy this obligation, a district must ensure that each teacher and related services provider has access to the IEP and 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." *Id.* § 300.323(d).

B. IEP Accessibility and Responsibilities

The CDE must determine whether District satisfied its obligation under 34 C.F.R. § 300.323(d). Here, Special Education Teacher, who was responsible for the delivery of Student's direct instruction services, demonstrated familiarity with those services. (FF #s 22-23.) In addition, as Student's case manager, Special Education Teacher notified Student's general education teachers

of the new IEP and ensured that those teachers received IEP snapshots fully describing Student's accommodations. (FF #s 18-19.) ELA Teacher and Math Teacher both demonstrated familiarity with Student's accommodations and the circumstances in which they were to be delivered. (FF # 21.) For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

C. Implementation of Direct Instruction

Here, the IEP's service delivery statement described that Student's direct instruction minutes must support self-advocacy in the general education classroom. (FF # 10, 24.) Special Education Teacher worked directly with Student to help him to be able to ask questions of his teachers. (FF # 25.) When working with Student in the general education classroom, she would assist Student in asking for help, and when not present, she provided the general education teachers a list of example questions and asked them to track Student's ability to ask for assistance. (FF #s 26-28.)

For these reasons, the CDE finds and concludes that District provided direct instruction services related to self-advocacy to Student consistent with the IEP, as required by 34 C.F.R. § 300.323(c).

D. Implementation of Student's Accommodations

Parent raised concerns with three accommodations: the use of a Livescribe pen, text-to-speech software, and a calculator. (FF # 30.) Here, the Record shows that the IEP did not require a Livescribe pen accommodation from April 8, 2024 through the end of the 2023-2024 school year. (FF #s 31-34.) As described in the Findings of Fact, District provided the text-to-speech and calculator accommodations. (FF #s 35-49.)

For these reasons, the CDE finds and concludes that District provided these accommodations to Student consistent with the IEP, as required by 34 C.F.R. § 300.323(c).

REMEDIES

The CDE concludes that District complied with the IDEA. Accordingly, no remedies are ordered.

CONCLUSION

The Decision of the CDE is final and is not subject to appeal. *C CDE's State Complaint Procedures*, Section E, ¶ 2. 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. *Id.*; *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 State Complaints Officer ("SCO").

Dated this 6th day of June, 2025.



Nick Butler
State Complaints Officer

APPENDIX

Complaint, pages 1-26

- Exhibit 1: Various documents related to the 2024-2025 school year
- Exhibit 2: Various documents related to the 2024-2025 school year

Response, pages 1-23

- Exhibit A: IEPs
- Exhibit B: IEP meeting documentation
- Exhibit C: Notices of meeting
- Exhibit D: n/a
- Exhibit E: Student's schedule, grades, attendance
- Exhibit F: Progress monitoring
- Exhibit G: Behavioral incident reports
- Exhibit H: District calendar
- Exhibit I: District policies and procedures
- Exhibit J: Correspondence
- Exhibit K: List of District personnel with knowledge
- Exhibit L: Verification of delivery to Parent
- Exhibit M: Additional documentation
- Exhibit N: Additional documentation related to accommodations

Reply, pages 1-42

- Exhibit 3: Screenshots of text messages between Parent and Special Education Teacher
- Exhibit 4: Screenshots of text messages between Parent and Special Education Teacher
- Exhibit 5: Text messages and copies of assignments
- Exhibit 6: Attendance documentation
- Exhibit 7: Videos and documentation related to accommodations
- Exhibit 8: Documentation related to transportation
- Exhibit 9: n/a
- Exhibit 10: Various documentation

CDE Exhibits

- CDE Exhibit 1: Self-advocacy worksheet
- CDE Exhibit 2: IEP snapshot
- CDE Exhibit 3: Consent to Evaluate
- CDE Exhibit 4: Livescribe pen product description
- CDE Exhibit 5: Attendance sheet for May 9, 2025 IEP meeting
- CDE Exhibit 6: May 9, 2025 meeting notes
- CDE Exhibit 7: IEP developed following May 9, 2025 meeting

Telephone Interviews

- Parent: May 5, 2025
- Special Education Teacher: May 5, 2025
- Principal: May 6, 2025
- Special Education Director: May 6, 2025
- ESS Teacher: May 8, 2025
- Math Teacher: May 8, 2025