

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

State Complaint SC2025-553
Denver Public Schools

DECISION

INTRODUCTION

On April 17, 2025, the attorney for the parent (“Parent”) of two students (“Student A” and “Student B”) identified as children with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against Denver Public Schools (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified three 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.

On April 21, 2025, upon agreement of the parties, the CDE extended the 60-day investigation timeline to allow the parties to participate in mediation consistent with 34 C.F.R. § 300.152(b)(1). Mediation resulted in impasse and the CDE resumed the investigation on May 20, 2025.

On July 1, 2025, the CDE extended the 60-day investigation due to exceptional circumstances, consistent with 34 C.F.R. § 300.152(b)(1).

The CDE’s goal in state complaint investigations is to improve outcomes for students with disabilities and promote positive parent-school partnerships. A final written 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 properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after April 17, 2024. Information prior to that date may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

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.

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 A’s IEP, from August 2024 through February 2025, to address information about Student A provided to or by Parent, as well as Student A’s anticipated needs—specifically regarding Student A’s health and social-emotional needs—as required by 34 C.F.R. § 300.324(b)(1)(ii)(C)-(D).
2. District did not fully implement Student B’s Individualized Education Program (“IEP”) from August 2024 to February 2025 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); and
 - b. Did not provide the accommodations listed in the IEP—specifically, access to fidget chairs, fidget toys, a weighted vest, and noise-canceling headphones—as required by 34 C.F.R. § 300.323(c).
3. District did not review and, as appropriate, revise Student B’s IEP, from August 2024 through February 2025, to address information about Student B’s anticipated needs—specifically related to Student B’s elopement and leg injury—as required by 34 C.F.R. § 300.324(b)(1)(ii)(D).

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 A is 18 years old and attends a District high school (“School”) in eleventh grade. *Exhibit A*, p. 1. He qualified for special education and related services under the disability categories of Traumatic Brain Injury⁴, Other Health Impairment, Serious Emotional Disability, Specific Learning Disability, and Speech or Language Impairment. *Id.*

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.

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

⁴ Following a May 2025 eligibility meeting, Student was no longer found to qualify for special education under the category of “Traumatic Brain Injury” but continued to qualify under the remaining categories. *Exhibit C*, p. 3.

2. Student A is kind and respectful, enjoys spending time with friends, and is an excellent athlete who participates in School's football program. *Interviews with Parent, School's social worker ("Social Worker"), and School's nurse specialist ("Nurse").*
3. Student B is 15 years old and attends School in ninth grade. *Exhibit I*, p. 1. He qualifies for special education and related services under the disability categories of Serious Emotional Disability, Other Health Impairment, and Specific Learning Disability. *Id.*
4. Student B is friendly, has a great sense of humor, and is keenly interested in baking and working with animals. *Interviews with Parents, Social Worker, Student B's special education teacher ("Special Education Teacher") and Student B's general education English teacher ("English Teacher.")*
5. This investigation involves the review and revision of Student A's IEPs, including an IEP dated February 29, 2024 ("IEP A-1"), and an IEP dated January 28, 2025 ("IEP A-2"). *Exhibit A*. It also involves the review, revision, and implementation of Student B's IEPs, including an IEP dated February 2, 2024 ("IEP B-1") and an IEP dated January 24, 2025 ("IEP B-2"). *Exhibit I*.

B. District's Policies, Practices and Procedures

6. District's senior manager for special education ("Senior Manager") discussed District's responsibilities under IDEA and ECEA, describing how District works to ensure that its staff remain knowledgeable and up to date regarding their duties under the law. *Interview with Senior Manager*.
7. To accomplish this, District provides regular professional development training regarding special education to staff. *Id.* In addition, District-level special education professionals regularly meet with building level staff to discuss both general topics and student-specific cases. *Id.*
8. District provides staff a 61-page special education manual, establishing District's standard operating procedures with respect to special education. *Exhibit S*. For many topics discussed in the manual, the manual provides a link and access code to an online seminar discussing that topic in depth, or other resources related to the topic. *Id.*
9. Senior Manager stated that District must remain vigilant to ensure that students' IEPs remain responsive to their individualized needs. *Interview with Senior Manager*. He stated that District's expectation is that staff regularly monitor students' progress, information provided by parents, and other information to determine whether an IEP needs to be revised prior to an annual review. *Id.*
10. Senior Manager stated that each District student on an IEP is assigned a case manager. *Id.* That case manager is responsible for ensuring that all staff responsible for implementing the IEP are aware of their specific responsibilities, and that such staff have access to the IEP or an IEP snapshot that describes their responsibilities. *Id.*; *Exhibit R*, p. 30.

C. Student A's IEPs

11. Student A's IEPs each describe his functional strengths, preferences and interests. *Exhibit A*, pp. 3, 33. The IEPs' present levels of performance sections document Student A's academic progress, his progress on IEP goals, his attendance, his performance on assessments, and information regarding his health. *Id.* at pp. 3-17, 33-41. These sections each contain input from Parent and Student A. *Id.*
12. These sections also document the impact of Student A's disabilities. *Id.* at pp. 15-16, 39-40. Specifically, they describe that Student A has arthritis, which can both directly cause him joint pain and fatigue, and indirectly cause him stomach irritation due to side effects from medication. *Id.* at pp. 16, 40. In addition, these sections note that Student A struggles with anxiety and depression, which can affect his performance in the classroom. *Id.* at pp. 17, 40.
13. Each IEP documents that Student A has a health care plan. *Id.* at pp. 17, 41. Each IEP contains a post-secondary transition plan, with IEP A-1 describing a plan to enable Student A to pursue a career as a welder or electrician, and IEP A-2 describing a plan to enable Student A to pursue a career in architectural design. *Id.* at pp. 17-18, 42-41.
14. Each IEP contains five annual goals in reading, writing, mathematics, social/emotional wellness, and communication. *Id.* at pp. 19-21, 43-44. Each IEP contains numerous accommodations designed to enable Student A to access the general education curriculum – IEP A-1 contains 70 and IEP A-2 contains 69. *Id.* at p. 21-23, 45-46.
15. Each IEP contains a Service Delivery Statement documenting the specialized instruction and related services Student A must receive, including specialized instruction in math, literacy and speech and language, school nursing services, and social work services. *Id.* at pp. 26-27, 49-50. Specifically, the IEPs indicate that Student's social work services are designed to assist him with executive functioning and emotional regulation. *Id.*
16. Each IEP determines that the least restrictive environment appropriate to Student A's needs is the general education classroom at least 80% of the time. *Id.* at pp. 27-28, 50-51.

D. Student A's Health Concerns

17. Parent's concern is that District did not appropriately respond to information she provided related to Student A's physical health. *Interview with Parent.*
18. Student A has been diagnosed with a form of chronic arthritis which causes joint pain and stiffness. *Interviews with Parent and Nurse; Exhibit V*, p. 18. The medication he takes to address those symptoms can cause gastrointestinal irritation. *Id.*
19. On August 7, 2024, and August 16, 2024, prior to the start of the 2024-2025 school year, staff from School met with Parent to discuss the needs of both Students A and B in the upcoming

school year. *Exhibit S*, pp. 1, 17. Notes from these meetings indicate that concerns related to Student A's physical health were not raised by Parent. *Id.*

20. On September 10, 2025, Student A's private pediatric nurse practitioner completed a "Preparticipation Physical Evaluation" reviewing Student A's health following a physical examination. *Exhibit V*, pp. 22-23. This form was submitted to District to clear Student A for football. *Exhibit S*, p. 2. The form noted that aside from a history of well-controlled asthma, Student A's physical health was "normal" in all respects and noted no health concerns. *Exhibit V*, p. 22. The nurse practitioner indicated that Student A is "medically eligible for all sports without restriction." *Id.* at p. 23.
21. From the beginning of the 2024-2025 school year through February 4, 2025, Nurse, who worked regularly with Student A, did not observe Student A to be affected by gastrointestinal distress at School. *Interview with Nurse*.
22. During Student A's January 28, 2025 IEP meeting, Parent stated that Student A was experiencing gastrointestinal issues. *Exhibit A*, p. 16.
23. That day, Nurse requested a release of information that would allow her to speak with Student A's medical providers regarding these issues and asked for medical documentation related to the issues. *Exhibit S*, pp. 4-5. Parent stated that she would not consent to a release of information but indicated that she would attempt to obtain the requested documentation. *Id.* In addition, Nurse sent an email that day, making a note to "move math to a later class-for belly issues." *Exhibit S*, p. 163.
24. On February 4, 2025, Student left class to visit Nurse, complaining that his stomach was hurting due to having taken his medication. *Interview with Nurse; Exhibit S*, p. 5. Nurse wrote Student A a note excusing him from class, and Student A left School for the day. *Id.*
25. At a follow-up IEP meeting on February 11, 2025, Nurse provided Parent with two release of information forms requesting permission to speak with Student A's medical providers. *Exhibit S*, p. 5. Parent again refused to consent to the releases of information but stated that she would provide a letter from Student A's doctor documenting these medical needs. *Id.*
26. Following that meeting, District finalized IEP A-2, which included fifteen accommodations under the heading "Accommodations to Support [Student A]'s Arthritis." *Exhibit A*, p. 23.
27. On March 20, 2025, Parent submitted a letter from Student A's doctor, dated March 19, 2025, noting Student A's diagnosis of arthritis, the possibility of side effects from the medications Student A takes to address that arthritis, and recommending several accommodations that may help Student A. *Exhibit E*, pp. 87-88. The accommodations recommended by Student A's doctor closely mirrored the accommodations that had been added to Student A's IEP following the January 28 and February 11, 2025, meetings. Compare *Exhibit E*, pp. 87-88 to *Exhibit A*, p. 23.

28. Nurse carefully reviewed the letter and noted that many of the doctor's recommended accommodations had already been added following the January 28, 2025 IEP meeting. *Interview with Nurse*. Nevertheless, the information provided in the letter enabled her to provide additional guidance to staff working with Student A on how they might better address Student A's health needs. *Id.*

E. Student A's Social-Emotional Concerns

29. Parent's concern is that District did not appropriately respond to information she provided regarding Student A's social-emotional needs. *Interview with Parent*.
30. At the August 16, 2024, meeting to prepare for the upcoming school year, Students A and B met with Social Worker, who would be their mental health provider during the year. *Exhibit S*, pp. 1, 17; *Interview with Social Worker*.
31. Over the course of the 2024-2025 school year, Student A met regularly with Social Worker. *Interview with Social Worker*. During these sessions, the two would work on matters related to Student A's executive functioning, emotional regulation, trauma history, and anxiety related to School. *Id.* In addition, Social Worker would perform check-ins with Student A when he was feeling anxious or dysregulated. *Id.*
32. On August 21, 2024, during the first week of the 2024-2025 school year, Student A was searched for drugs by one of School's deans. *Exhibit S*, p. 56. According to Parent, this incident was traumatizing to Student A. *Interview with Parent*. School's principal ("Principal") investigated this incident, taking statements from Student A and the dean. *Exhibit S*, p. 56.
33. On September 21, 2024, Parent sent an email to School and District staff stating that because she believed Social Worker to be married to another of Student A's teachers, she did not wish for Social Worker to perform check-ins with Student A any longer. *Id.*
34. On November 11, 2024, Principal spoke to Student A's outside therapist regarding the August 21, 2024, search and Student A's mental health needs related to that incident. *Id.* at pp. 168-170.
35. Prior to Student A's January 28, 2025 IEP meeting, Social Worker contacted Student A's teachers to collect feedback on his social-emotional functioning in the classroom. *Id.* at p. 177. The information provided by teacher indicated that Student A struggled with executive functioning skills and would occasionally leave class to visit Social Worker due to anxiety. *Exhibit A*, p. 15.
36. During the IEP meetings for Student A on January 28, 2025 and February 11, 2025, Parent reported that Student A struggled with anxiety and was uncomfortable coming to school due to the August 21, 2024 search. *Id.* at p. 16.

37. During these meetings, the IEP team revised Student A's accommodations to better address his anxiety at School, adding an accommodation to allow Student A to contact Parent when he feels the need for support. *Exhibit A*, pp. 21-22. The IEP team also revised one of the goals to align his social-emotional skills to his needs. *Interview with Social Worker; Exhibit S*, p. 55.
38. Two days after the February 11, 2025, meeting, Student A's case manager sent an email to all School staff working with Student A with a list of the accommodations and stated that she would check in with the recipients over the next week to answer questions. *Exhibit S*, p. 95.

F. Student B's IEPs

39. Student B's IEPs each describe his functional strengths, preferences and interests. *Exhibit I*, pp. 3, 29. The IEPs' present levels of performance sections document his academic progress, his progress on IEP goals, his attendance, and his performance on assessments. *Id.* at pp. 3-13, 29-35.
40. These sections also document the impact of Student B's disabilities, with each noting that he struggles to self-regulate in the general education environment and needs support in academics. *Id.* at pp. 12-13, 35. Specifically, when Student B is feeling overwhelmed in a school setting, he often acts unpredictably and feels the need to leave the classroom to regulate. *Id.*
41. Each IEP documents that Student B has a behavior plan and uses assistive technology. *Id.* at pp. 14, 36.
42. IEP B-2 contains a post-secondary transition plan, describing a course of study designed to enable Student to pursue a career related to animals or veterinary medicine. *Id.* at pp. 14-16.
43. Each IEP contains annual goals in reading, writing, mathematics, and social/emotional wellness. *Id.* at pp. 16-19, 36-39. Each IEP contains numerous accommodations designed to enable Student B to access the general education curriculum – IEP B-1 contains 47 and IEP B-2 contains 41. *Id.* at p. 19-20, 40-41. Relevant to this investigation, each IEP contains the following accommodations:
- “[Student] may be provided with non-distracting fidgets.”
 - “Allow noise cancelling headphones.”
 - “Provide the opportunity to utilize compression vests.”
 - “Provide the opportunity for wobble seats.”

Id. at pp. 19, 40.

44. Each IEP contains a Service Delivery Statement documenting the specialized instruction and related services Student B must receive, including specialized instruction in math and literacy, psychological services, and occupational therapy services. *Id.* at pp. 23-25, 44-46. In addition, the Service Delivery Statements each describe that Student B will have paraprofessional support during the school day. *Id.* The paraprofessional not only provides check-ins and academic support but also accompanies Student B if he feels that he needs to leave the classroom to de-escalate in order to provide support and supervision. *Id.*
45. IEP B-1 determines that the least restrictive environment appropriate is the general education classroom between 40% and 79% of the time. *Id.* at p. 47. IEP B-2 determines that the least restrictive environment is the general education classroom at least 80% of the time. *Id.* at pp. 25-26.
46. Relevant to this investigation, one component of Student B's accommodations was amended outside of a formal IEP meeting, consistent with IDEA. *Id.* at pp. 50-55. As originally written, IEP B-1 contained an accommodation which reads: "Maintain line-of-sight supervision." *Id.* at p. 40.
47. Following Parent's request on August 16, 2024, the IEP team added a clarification reading "[Student B] will not be considered 'line of sight' during lunch each day, so dedicated adult support/paraprofessional will not be expected to be with him and he is allowed to have off-campus lunch." *Id.* at p. 52. The amendment notes that Student B's paraprofessional will meet Student B in his class after lunch. *Id.*
48. IEP B-2, dated January 24, 2025, changed this accommodation again, describing that "[Student B] will be considered 'line of sight' during lunch each day, so dedicated adult support/paraprofessional will be expected to be with him and he is not allowed to have off-campus lunch." *Id.* at p. 19.
49. On April 15, 2025, following a request by Parent, the IEP team again amended this accommodation, deleting the provision that Student B is subject to line-of-sight supervision during lunch. *Id.* at p. 54.

G. Student B's Elopement

50. Parent's concern is that District did not appropriately respond to her concerns regarding elopement from School's campus during the 2024-2025 school year. *Interview with Parent.*
51. Parent, through her attorney, identified two instances of elopement during the 2024-2025 school year – one which occurred during the week prior to March 17, 2025, and one which occurred on April 4, 2025. *CDE Exhibit 2; Exhibit 14.*
52. Both IEP B-1 and IEP B-2 require that a paraprofessional or other member of school staff "maintain line of sight supervision" of Student B while at School. *Exhibit 1*, pp. 19, 40. The

purpose of this supervision was, in part, to prevent elopement from School. *Interview with Special Education Teacher.*

53. At the IEP meetings to develop IEP B-2 on January 28 and February 11, 2025, Parent reported that Student had a history of elopement from campus. *Exhibit I*, p. 26. The school team noted that elopement had not occurred during this school year but added an accommodation to the IEP requiring that Parent be contacted if elopement occurs. *Id.*
54. On February 26, 2025, a District special education instructional specialist (“SEIS”) spoke with Parent by telephone, proposing that when Student B arrives to campus, he check in at the front office to meet his paraprofessional. *Exhibit S*, p. 11.
55. On March 10, 2025, Parent requested that, contrary to the amended accommodation in IEP B-2 requiring that Student B remain within line of sight during lunch period, Student be allowed to leave campus during lunch. *Id.* at p. 12.
56. On March 14, 2025, Student B left campus during the lunch period but was 40 minutes late in returning to campus. *Id.* SEIS contacted Parent to report Student B’s absence but was unable to leave a message because Parent’s voicemail inbox was full. *Id.*
57. Three days later, on March 17, 2025, Parent sent an email to Principal and SEIS stating that the previous week, Student B “had disappeared for several hours.” *Exhibit 14.*
58. On April 4, 2025, Student B eloped from campus for a period of about one hour before being found safe off campus. *Exhibit S*, p. 13. Principal contacted Parent upon Student B’s elopement and upon his being found. *Id.*

H. Student B’s Leg Injury

59. Parent’s concern is that District did not appropriately respond to information related to a leg injury sustained by Student B in fall 2024. *Interview with Parent.*
60. On October 11, 2024, Student B was involved in a motorcycle crash and sustained a distal femur fracture – a break in the thigh bone just above the knee joint. *Exhibit 11*, p. 1. On October 19, 2024, Student B was treated in an emergency room for the injury, had his leg immobilized in a cast, and was instructed to avoid weight-bearing on that leg. *Id.*
61. Student B visited a doctor for follow-up appointments on December 13, 2024 and January 15, 2025. *Exhibit 11; CDE Exhibit 3.* Medical reports from those visits do not indicate any contracture or loss of range of motion. *Id.*
62. Student B’s teachers recalled that Student wore a leg cast in Fall 2024, but stated that this injury did not inhibit Student B’s ability to participate in his classes. *Interviews with Special Education Teacher and English Teacher.*

63. In December 2024, Student B’s guardian ad litem assistant sent an email to SEIS noting Student B’s leg injury but stating that her office was not aware of any reason that injury would prevent Student B from attending school. *Exhibit S*, pp. 10-11.

I. Accessibility of Student B’s IEPs

64. A week prior to the start of the 2024-2025 school year, Student B’s general education teachers met with School’s special education team lead (“Team Lead”) to discuss Student B’s accommodations and ask any questions they had regarding their implementation. *Interviews with Special Education Teacher and English Teacher*.

65. District created an “IEP Student Snapshot” for Student B – an abridged version of Student B’s IEP which contains all his accommodations, a description of his special education services, and a description of his annual goals. *Exhibit L*, pp. 10.

66. A copy of Student B’s IEP snapshot was kept on a shared Google Drive folder that all staff responsible for implementing Student B’s IEP had access to. *Exhibit L*, p. 16; *Interviews with Special Education Teacher and English Teacher*.

67. In addition, Student B’s teachers were provided with a spreadsheet which listed the students in their class, including Student B, and noted whether each student required any of a list of 21 common accommodations, divided into categories based on when those accommodations were to be implemented. *Exhibit L*, pp. 28-30. Under a field titled “Other Accommodations” the entry for Student B reads: “***Very important – Please read snapshot in entirety for many additional accommodations.” *Id.* at p. 28. The spreadsheet indicated that should teachers have any questions about any accommodation required by students, they should contact Team Lead. *Id.*

J. Implementation of Student B’s Accommodations

68. Parent’s concern is that Student B’s accommodations for access to fidget chairs and fidget tools, access to a weighted vest, and access to noise-cancelling headphones, were not provided to him at School. *Interview with Parent; Complaint 2*, p. 4.

Access to Fidget Chairs and Fidget Tools

69. Student B’s IEPs include accommodations which read: “[Student] may be provided with non-distracting fidgets” and “Provide the opportunity for wobble seats.” *Exhibit I*, pp. 19, 40.

70. A “wobble seat” is a type of seat which rests on a slightly unstable base and allows for a student seated in it to engage in movement while in class. *Interviews with Parent, Special Education Teacher, and English Teacher*.

71. On the first day of the 2024-2025 school year, Special Education Teacher walked Student B to all his classrooms and showed him where a fidget chair could be located in each of his classes. *Interview with Special Education Teacher.*
72. Special Education Teacher and English Teacher stated that Student B frequently used such a seat in his classes. *Interviews with Special Education Teacher and English Teacher.*
73. Fidget tools include any of a collection of small manipulative devices which, like fidget chairs, allow a student to engage in movement while in class. *Interviews with Parent, Special Education Teacher, and English Teacher.*
74. Special Education Teacher noted that he had a collection of fidget tools available for student use. *Interview with Special Education Teacher.* In addition, because many students benefit from the use of such devices, each of Student B's general education teachers had a collection of fidget tools available for student use. *Interviews with Special Education Teacher and English Teacher.* During Student B's first-day building tour, Special Education Teacher pointed out the location where these devices were stored. *Interview with Special Education Teacher.*
75. Special Education Teacher and English Teacher described that Student frequently made use of fidget tools during class, particularly preferring fidget spinners, fidget cubes, and rubber poppers. *Interviews with Special Education Teacher and English Teacher.*
76. Based upon these facts, the CDE finds that these accommodations were made available to Student during the 2024-2025 school year.

Access to a Weighted Vest

77. Student B's IEPs include an accommodation which reads: "Provide opportunity to use compression vest." *Exhibit I*, pp. 19, 40.
78. A weighted vest, or compression vest, is a heavy garment which applies pressure to the wearer's torso, which can be helpful for students with sensory needs. *Interviews with Parent, Special Education Teacher, and English Teacher.*
79. Compression vests for students are kept in Team Lead's room. *Interview with Special Education Teacher.* When Student B asks for access to a compression vest, he or his paraprofessional can retrieve the vest from the Team Lead's room. *Id.*
80. In addition, if Student B has not requested the compression vest but his paraprofessional can tell that Student B is becoming agitated, the paraprofessional will prompt Student B, asking if he would like to use a compression vest. *Id.*
81. Student's teachers reported that they observed Student using a compression vest in their classes. *Interviews with English Teacher and Special Education Teacher.*

82. When establishing a morning check-in plan for Student B during a February 26, 2025 telephone conversation with Parent, SEIS noted that as part of the plan, Student B's paraprofessional would meet him at the front office with his compression vest before proceeding to class. *Exhibit S*, p. 11.
83. Based on these facts, the CDE finds that this accommodation was made available to him during the 2024-2025 school year.

Access to Noise Canceling Headphones

84. Student B's IEPs contain an accommodation which reads: "Allow noise cancelling headphones." *Exhibit I*, pp. 19, 40.
85. Noise-canceling headphones, when worn, actively dampen sounds from the surrounding environment, which can be helpful to Students with sensory needs. *Interviews with Parent, Special Education Teacher, and English Teacher*.
86. Noise-canceling headphones for students are kept in Team Lead's room. *Interview with Special Education Teacher*. When Student B asks for access to these headphones, he or his paraprofessional can retrieve the device from Team Lead's room. *Id.*
87. In addition, if Student B has not requested the headphones but his paraprofessional can tell that Student B is becoming agitated, the paraprofessional will prompt Student B, asking if he would like to use his noise-canceling headphones. *Id.*
88. Student's teachers described observing Student using noise-canceling headphones in their classes, with Special Education Teacher providing an image similar to the device that Student B used in class. *Interviews with English Teacher and Special Education Teacher; CDE Exhibit 6*.
89. Based on these facts, the CDE finds that this accommodation was made available to him during the 2024-2025 school year.

K. Development of Students' IEPs during the 2024-2025 School Year

90. At the August 7, 2024 meeting, Parent requested that District re-evaluate Student A and Student B. *Exhibit D*, p. 1. Parent signed a consent to evaluate form. *Exhibit S*, p. 71. For Student A, the consent to evaluate included an evaluation in social and emotional status. *Exhibit D*, p. 1. District began the process of evaluating Students and attempted to schedule re-evaluation meetings for each. *Id.* at pp. 53-54.
91. At a meeting at School on September 3, 2024, Parent indicated that she might wish to revoke her consent to re-evaluate Students but would make her decision the next day. *Id.* at p. 8. During that meeting, Parent "adamantly stated that she did not want the IEP changed." *Exhibit D*, p. 2.

92. On September 11, 2024, two of District's special education instructional specialists reached out to Parent's advocate seeking to clarify Parent's intentions with respect to the evaluations, and asking if the advocate could assist Parent in communicating her consent revocation in writing. *Exhibit S*, pp. 69-71. The advocate responded, saying that Parent was not prepared to revoke her consent in writing. *Id.* at p. 69.
93. In a September 21, 2024, email to District, Parent stated: "So not one can say they misunderstood, I don't want them reevaluated, and I do not give me such permission and revoke any permission you thought you all had. We will implement the IEPs that we have now and that is it." *Id.* at p. 178 (errors in original).
94. District updated the August 7, 2024 consent to evaluate form to note that Parent had revoked consent and issued a prior written notice indicating that the proposed re-evaluation would not go forward at this time. *Exhibit D*, p. 2; *Exhibit K*.
95. On September 25, 2024, District reached out to Parent and her advocate to attempt to schedule annual IEP review meetings for Students. *Exhibit S*, p. 159. Due to Parent's advocate's availability, the soonest date that could be scheduled was October 17, 2024. *Id.* at p. 158.
96. Three days prior to the scheduled October 17 meetings, Parent indicated by phone that she would not be available. *Id.* at p. 62. Following continued scheduling discussions, IEP review meetings for Students A and B were scheduled for January 28, 2025 and January 24, 2025, respectively. *Exhibit B and Exhibit J*.
97. On January 28 and February 11, 2025, a properly constituted IEP team, including Parent, participated in an IEP meeting and developed IEP A-2. *Exhibit A*, p. 2. Specific to this investigation, IEP A-2 contains new accommodations tailored toward Student A's health and social-emotional needs, and a revised social-emotional goal targeted toward Student A's emotional identification and regulation skills. *Id.* at pp. 20-23.
98. On January 24 and February 10, 2025, a properly constituted IEP team, including Parent, participated in an IEP meeting and developed IEP B-2. *Exhibit I*, p. 2. Specific to this investigation, IEP B-2 added an accommodation related to Parent's concerns regarding elopement, and described in greater detail the ways in which Student B's paraprofessional or other adult support could help to address his social-emotional concerns. *Id.* at pp. 19-20, 23-24.
99. In April and May 2025, District, with Parent's consent, performed a re-evaluation of Student A. *Exhibit E*, pp. 49-92. On May 28 and May 29, 2025, District held an eligibility meeting and developed a new IEP for Student A. *Exhibit A*, pp. 53-76. Specific to this investigation, and based on the results of Student A's re-evaluation, the May 2025 IEP revised Student's social-emotional goal to focus on providing Student A with coping strategies he can use "to manage somatization and physical symptoms related to emotional stress." *Id.*, pp. 66-67.

100. On May 2, 2025 District proposed a meeting for May 29, 2025, to discuss continued adjustments to Student B's IEP, specifically Parent's request for an accommodation that would allow Student B to participate in athletics even if he did not meet School's minimum attendance threshold for participation. *Exhibit J*, p. 5; *CDE Exhibit 5*. Following the meeting, District issued a prior written notice refusing to add that accommodation, stating that attendance issues were not related to his disability and noting that he has demonstrated the ability to attend School at a much higher rate during football season. *CDE Exhibit 5*.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District reviewed and, as appropriate, revised Student A's IEPs to address Parent's concerns regarding health and social-emotional needs from August 2024 through February 2025, consistent with 34 C.F.R. § 300.324(b). District complied with the IDEA.

Parent's concern is that District did not adequately consider or address information regarding Student A's health and social-emotional needs. (FF #s 17, 29.)

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. Student A's Health Concerns

Here, Parent raised concerns regarding complications from Student A's arthritis, including gastrointestinal distress arising from his medications. (FF # 18.)

The Record indicates that School did not have reason to be aware of these health concerns during the first semester of the 2024-2025 school year. (FF # 22.) The medical documentation submitted to School related to Student A's participation in football did not indicate any health concerns aside from well-controlled asthma. (FF # 20.) Nurse, who worked with Student frequently due to his arthritis, did not observe gastrointestinal distress prior to February 2025. (FF # 21.) And although Parent met with School staff multiple times to discuss the needs of Students A and B, these concerns were not raised. (FF # 19.)

Parent raised concerns regarding Student A's gastrointestinal distress during a January 28, 2025, IEP meeting. (FF # 22.) That day, and again at the follow-up meeting two weeks later, Nurse requested a release of information which would allow her to speak with Student A's doctors about this condition, but Parent refused on both occasions. (FF #s 23, 25.) Considering Parent's concerns, the IEP team added several accommodations tailored toward addressing Student A's health conditions. (FF # 26.) On March 20, 2025, Parent provided a letter from Student A's doctor which recommended many of the same accommodations the IEP team had previously added. (FF # 27.) Nurse reviewed the letter and used the information in it to provide guidance to School staff. (FF # 28.)

For these reasons, the CDE finds and concludes that District reviewed and, as appropriate, revised Student A's IEPs to address Parent's concerns regarding health, in compliance with 34 C.F.R. § 300.324(b)(1)(ii)(C).

C. Student A's Social-Emotional Concerns

Here, Parent raised concerns regarding Student A's social-emotional needs, specifically related to anxiety. (FF #s 29, 36.)

District supported Student A with his social-emotional needs throughout the 2024-2025 school year, establishing a relationship between Student A and Social Worker prior to the start of the school year. (FF #s 30-31.) In addition to direct services, Social Worker regularly checked in with Student A to ensure that he was able to manage his anxiety. (FF # 31.) Student A's teachers reported that he would make use of these check-ins when anxious in class. (FF # 35.) Following an incident at School which Parent believed to be traumatizing to Student A, Principal investigated that incident and spoke with Student A's outside therapist to gather information about the impact to Student A. (FF # 32, 34.)

Following Parent's request and consent to evaluate, District attempted to re-evaluate Student A's social-emotional functioning. (FF # 90.) That evaluation, already in progress, was stopped when Parent revoked her consent to evaluate on September 21, 2024. (FF #s 91-93.) District convened an annual IEP meeting, which due to scheduling conflicts was scheduled on January 28, 2025. (FF #s 94-97.) At that meeting and its follow-up, Parent expressed concerns related to Student's anxiety. (FF # 36.) The IEP team considered Parent's concerns and revised Student A's accommodations and one of his annual goals considering those concerns. (FF # 40.) Following the meeting, Student A's case manager emailed all school staff working with Student A to describe

the new accommodation list and offer support in implementing it. (FF # 38.) In spring 2025, District reevaluated Student A, held an eligibility meeting, and developed a new IEP, which included goals more specifically tailored to Student A's social-emotional needs. (FF # 98.)

For these reasons, the CDE finds and concludes that District reviewed and, as appropriate, revised Student A's IEPs to address Parent's concerns regarding social-emotional needs, in compliance with 34 C.F.R. § 300.324(b)(1)(ii)(C).

Conclusion to Allegation No. 2: District implemented Student B's IEP from August 2024 through February 2025, consistent with 34 C.F.R. § 300.323. District complied with the IDEA.

Parent's concern is that several of Student B's accommodations were not provided. (FF # 68.)

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, all District staff responsible for implementing Student B's IEP had access to an IEP snapshot describing his services and accommodations via a shared folder. (FF #s 65-66.) General education teachers met with special education staff to discuss and ask questions regarding Student B's IEP. (FF # 64.) Teachers were also provided with resources to help them keep track of student accommodations. (FF # 67). For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

C. Implementation of Student B's Accommodations

Parent raised concerns with four accommodations: access to fidget chairs and fidget tools, access to a weighted vest, and access to noise-canceling headphones. (FF #s 68-69, 77, 84.) As described in the Findings of Fact, District made these accommodations available to Student B. (FF #s 69-

89.) 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).

Conclusion to Allegation No. 3: District responded to Parent’s concerns regarding Student B’s needs related to elopement and leg injury 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 she provided related to Student B’s elopement and leg injury. (FF #s 50, 59.)

A. Legal Obligation to Review and Revise IEPs

The legal framework outlined in Paragraph A for the Conclusion to Allegation No. 1 regarding the obligation to review, and as necessary, revise IEPs applies here.

B. Student B’s Elopement

Here, Parent raised concerns about Student B’s elopement from School. (FF # 50.) The only two instances of elopement that Parent identified during the 2024-2025 school year took place in March and April 2025. (FF # 51.) The Record does not indicate any instances of elopement prior to March 2025, the period covered by the allegation accepted for investigation. (FF #s 50-58.)

Despite this, Parent raised concerns regarding elopement at Student B’s IEP meetings on January 28 and February 11, 2025, due to Student B’s history of elopement in prior years. (FF # 53.) The IEP team, noting that Student B had not eloped during the 2024-2025 school year, nevertheless added an accommodation to Student B’s IEP regarding elopement. *Id.* In addition, District proposed that Student B check in with his paraprofessional at the start of the school day to help maintain Student B’s line-of-sight supervision. (FF # 54.)

On March 14, 2025, Student B left campus during the lunch period, using an exception to his line-of-sight accommodation requested by Parent, but did not return in a timely manner. (FF #s 55-56.) SEIS, consistent with the newly added accommodation from a recent IEP meeting, telephoned Parent to report Student B’s absence. (FF # 54.) On April 4, 2025, Student B eloped from campus for a period of about one hour before being found safe. (FF # 58.) As with the prior incident, District followed the accommodation requiring that Parent be contacted in case of elopement. (*Id.*) Following these incidents, District proposed a meeting with Parent in May 2025 to discuss continued adjustments to Student’s IEP. (FF # 100.)

For these reasons, the CDE finds and concludes that District reviewed and, as appropriate, revised Student B’s IEPs to address Parent’s concerns regarding elopement, in compliance with 34 C.F.R. § 300.324(b)(1)(ii)(C).

C. Student’s Leg Injury

Here, Parent raised concerns about a leg injury Student B sustained in October 2024. (FF # 59.)

Physical injuries, including bone fractures, can be the basis for IDEA eligibility under the disability category Orthopedic Impairment. 34 C.F.R. § 300.8. The regulation notes that impairments within this category include “fractures or burns that cause contractures.” *Id.*

Here, Student B’s injury was a distal femur fracture. (FF # 60.) Student B was treated in an emergency room, and at follow-up appointments in December 2024 and January 2025. (FF #s 60-61.) Medical documentation from those visits do not indicate any contracture or loss of range of motion related to this injury. (FF # 61.) Further, Student B’s teachers noted that this injury did not inhibit his ability to participate in class, and Student B’s guardian ad litem assistant stated that they were not aware of any reason the injury would affect Student’s school attendance. (FF #s 62-63.)

For these reasons, the CDE finds and concludes that Student’s leg injury did not obligate District to review and, as necessary, revise Student’s IEP pursuant to 34 C.F.R. § 300.324(b)(1)(ii)(C)⁵.

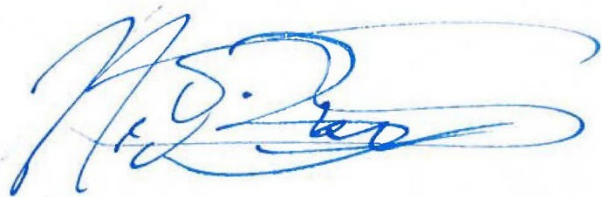
REMEDIES

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

CONCLUSION

The Decision of the CDE is final and is not subject to appeal. *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 29th day of July, 2025.



Nick Butler
State Complaints Officer

⁵ Student’s leg injury may implicate District’s obligations under other relevant disability laws outside of CDE’s state complaint jurisdiction, such as the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973.

APPENDIX

Complaint 1, pages 1-8

Complaint 2, pages 1-8

- Exhibit 1: Various documents related to complaint

Response, pages 1-13

- Exhibit A: Student A IEPs
- Exhibit B: Student A Notices of Meetings
- Exhibit C: Student A Prior Written Notices
- Exhibit D: Student A IEP Meeting Documentation
- Exhibit E: Student A Evaluations
- Exhibit F: Student A Progress Reports
- Exhibit G: Student A Service Logs
- Exhibit H: Student A Schedule, Grades, and Attendance
- Exhibit I: Student B IEPs
- Exhibit J: Student B Notices of Meetings
- Exhibit K: Student B Prior Written Notices
- Exhibit L: Student B IEP Meeting Documentation
- Exhibit M: Student B Evaluations
- Exhibit N: Student B Progress Reports
- Exhibit O: Student B Service Logs
- Exhibit P: Student B Schedule, Grades, and Attendance
- Exhibit Q: District Calendar
- Exhibit R: District Policies and Procedures
- Exhibit S: Correspondence
- Exhibit T: Description of Remedial Action
- Exhibit U: District Personnel with Knowledge
- Exhibit V: Other Relevant Information

Reply, pages 1-11

- Exhibit 2: Email from Parent 3/4/2025
- Exhibit 3: Email from Parent 5/12/2025
- Exhibit 4: Email from Police Department 5/15/2025
- Exhibit 5: Email from Parent 5/15/2025
- Exhibit 6: Email from Parent 5/22/2025
- Exhibit 7: Parent Mental Health Summary
- Exhibit 8: Student A Evaluation
- Exhibit 9: Student A Mental Health Report

- Exhibit 10: Student B Mental Health Report
- Exhibit 11: Student B Medical Report 12/13/2024
- Exhibit 12: Email from Parent 5/6/25
- Exhibit 13: Text Messages to Gym Teacher
- Exhibit 14: Email from Parent 3/17/25
- Exhibit 15: Redacted Medical Report for Student A
- Exhibit 16: Redacted Rheumatology Report for Student A
- Exhibit 17: Handwritten Note from Parent's Co-worker

CDE Exhibits

- CDE Exhibit 1: Accommodation Tracking Sheets
- CDE Exhibit 2: Student B Elopement Reports
- CDE Exhibit 3: Student B Medical Report 1/15/2025
- CDE Exhibit 4: Attendance Records for Younger Sibling
- CDE Exhibit 5: Prior Written Notice 6/4/2025
- CDE Exhibit 6: Example of Noise-Reduction Headphones

Telephone Interviews

- Parent: June 23, 2025
- Social Worker: June 25, 2025
- Nurse: June 25, 2025
- Special Education Teacher: June 26, 2025
- Senior Manager: June 26, 2025
- English Teacher: June 27, 2025