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

State-Level Complaint 2013: 509
El Paso County School District 2, Harrison

DECISION

INTRODUCTION

This state-level complaint (Complaint) was filed on June 17, 2013, by the parent of a child identified as a child with a disability under the Individuals with Disabilities Education Act (IDEA).[1]

Based on the written Complaint and a telephone interview with Parent on June 17, 2013, the State Complaints Officer (SCO) determined that the Complaint identified two allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153.[2] The SCO has jurisdiction to resolve the Complaint pursuant to these regulations.

PARENT'S COMPLAINT ALLEGATIONS

Parent's Complaint raised two allegations, summarized as follows:

1. With respect to the IEP meeting convened for Student on January 9, 2013, the District violated IDEA's procedural requirements by:

    a. Failing to provide Parent with proper notice of meeting, in violation of 34 CFR § 300.322.

    b. Failing to provide Parent with prior written notice concerning a change of educational placement, in violation of 34 CFR § 300.503.

[1] The IDEA is codified at 20 U.S.C. § 1400, *et seq.* The corresponding IDEA regulations are found at 34 CFR § 300.1, *et seq*.

[2] Hereafter, only the IDEA regulation and any corresponding Exceptional Children's Educational Act (ECEA) rule will be cited (e.g., § 300.000, Section 300.000 or Rule 1.00).

2. Following the IEP meeting on January 9, 2013, the District drafted a new IEP for Student without parental knowledge or participation, in violation of 34 CFR § 300.322. Specifically, Parent alleges that:

    a. On January 9, 2013, Student's IEP team discussed and agreed with her request that Student' educational placement be changed, but did not develop a new IEP;

    b. Following the IEP meeting on January 9, 2013, Student's Case Manager developed a new IEP without Parent's knowledge or participation; and

    c. Parent was not aware Student had a new IEP until she received a copy on February 13, 2013.

Summary of Proposed Remedies: To resolve the Complaint, Parent proposed that the District reevaluate Student using the new eligibility requirements pursuant to HB11-1277; and remove certain documents from Student's special education file.

SUMMARY OF THE DISTRICT'S RESPONSE

In its Response, the District asserted that Parent received notice of, and attended, the IEP meeting on January 9, 2013.

SUMMARY OF PARENT'S REPLY

Parent did not submit a Reply and failed to timely respond to requests for an interview with the SCO following receipt of the District's Response. Consequently, the information and evidence submitted by Parent consists of the Complaint, and a telephone interview of Parent for the purpose of clarifying the allegations in the Complaint on June 17, 2013.

FINDINGS OF FACT (FF)

After thorough and careful analysis of the entire record,[3] the SCO makes the following FINDINGS:

1. At all times relevant to the Complaint, Student was [age] and lived in the District.[4] Student is eligible for special education and related services as a child with a [disability].[5] Student attended School from the beginning of the 2012-2013 school year until January 10,

[3] The appendix, attached and incorporated by reference, details the entire record.
[4] Interviews with Principal, Social Worker, Case Manager, Former Special Education Coordinator, and Former Assistant Principal.
[5] Exhibit 2, p. 1.

2013. From January 10, 2013, through the end of the 2012-2013 school year, Student attended Separate School, a program operated by the BOCES.[6]

2. At the beginning of the 2012-2013 school year, Student began exhibiting behavior in the school environment described as in-class disruption of the learning environment, disrespect to staff, physical aggression, threats against staff, defiance of authority, and profanity.[7] This new behavior, which included throwing furniture at others, hitting, kicking, yelling at others and using profanity, was much different from behavior Student had previously exhibited in the school environment and resulted in multiple suspensions.[8] Consequently, the District conducted a functional behavioral assessment (FBA) in November/December of 2012 and shared the results with Parent at a manifestation determination meeting on December 10, 2012.[9]

3. Around this time, Parent, Grandparent, Great-Grandparent and the District began discussing placement in a more restrictive environment, specifically Separate School.[10] Throughout [Student's] young life, Student has alternately lived with Parent, Grandparent, and Great-Grandparent. Parent and Grandparent live within the boundaries of the District, while Great-Grandparent resides in Texas. Great-Grandparent is described by Parent as a co-guardian of Student and is actively engaged in Student's educational programming, so much so that she will fly in to attend Student's IEP meetings. Prior to moving to Colorado for the 2011-2012 school year, Student was living in Texas with Great-Grandparent. Great-Grandparent is described by the District as an invested and knowledgeable member of Student's IEP team. [11]

4. On January 8, 2013, Parent contacted Case Manager to request that the District immediately convene an IEP meeting for the purpose of "considering an alternate school placement."[12] Student had just received out-of-school suspensions for January 8 and January 9, 2013, and in Parent's opinion, School had demonstrated that it was not able to adequately

[6] Complaint, p. 1; Interview with Parent, Special Education Director, and Principal. At the time of the Complaint, the District had a contract with the BOCES to provide services at Separate School for students who required more intensive support, such as smaller class sizes and campus, and more individualized attention and therapeutic support.
[7] Exhibit 2, p. 4.
[8] Exhibit 4, pp. 8-9; Exhibit 2, pp. 204; Interviews with Principal, Former Special Education Coordinator; Social Worker, and Case Manager.
[9] Exhibit 2, p. 4; Interviews with Former Special Education Coordinator, Case Manager, and Social Worker. School Psychologist conducted the FBA. The School Psychologist no longer works for the District and refused to be interviewed.
[10] Interviews with Principal, Social Worker, Case Manager, Former Special Education Coordinator, and Former Assistant Principal.
[11] Exhibit E, p. 2; Interviews with Principal, Former Assistant Principal, Former Special Education Coordinator, Social Worker, and Case Manager. This information was provided by the District and not corroborated by Parent as she failed to timely respond to requests to be interviewed by the SCO.
[12] Complaint, p. 4.

respond to Student's unique needs. Consequently, Parent requested an IEP meeting to learn more about Separate School, a program operated by the BOCES.[13]

5. In response to Parent's request, the District scheduled an IEP meeting for January 9, 2013.[14] At Parent's request, the District scheduled this meeting for the very next day because Parent wanted Great-Grandparent, who had flown-in from Texas, to attend the meeting.[15]

6. In her Complaint, Parent alleges that the District denied her the right to meaningfully participate in the development of Student's January 2013 IEP by failing to give her proper notice of the IEP meeting. The notice of meeting, dated January 8, 2013, included all of the content required by 34 CFR § 300.322(b) including the date, time, location, purpose of the meeting, and who would be in attendance.[16] Parent claims, however, that she did not receive the written notice of meeting prior to the IEP meeting and saw the notice for the first time on May 24, 2013, the day she requested a copy of Student's special education file.[17] The SCO finds it more likely than not that Case Manager gave Parent the written notice of the meeting at the IEP meeting itself.[18] The SCO also finds, however, that it was Parent's request that the meeting be held at a time when Great-Grandparent could attend that limited the District's ability to provide the written notice of meeting in advance of the meeting itself.

7. Further, the lack of written notice of the IEP meeting did not impede Parent's ability to participate in the IEP meeting. First, Parent's attendance is evidence that she knew the date, time and location of the meeting. Importantly, the District scheduled the meeting at a time that was agreeable to Parent, specifically accommodating her request to hold the meeting on such short notice so that Great-Grandparent could attend. Second, Parent knew the purpose of the meeting because she was the one who requested it. Parent also demonstrated that she knew she could invite others to attend the meeting by inviting Student's great-grandmother and Therapist/Advocate to attend. Finally, Parent has not complained that she was surprised by anyone who did or did not attend the meeting. Combined, these facts demonstrate that Parent had proper notice of the IEP meeting—even though she did not receive a copy of the written notice dated January 8, 2013 until just prior to the meeting itself.

8. In addition to her allegation that the District did not provide proper notice of the IEP meeting, Parent claims that she was denied the opportunity to participate in the development of Student's IEP because there was no discussion about a "newly developed IEP or copies distributed to the IEP team" during the IEP meeting on January 9, 2013.[19] According to Parent, the District simply agreed with her request to change Student's placement from School to

[13] Complaint, p. 4; Exhibit 2, p. 4; Interviews with Parent, Case Manager, Former Assistant Principal, and Social Worker.
[14] Exhibit 1; Interview with Parent, Case Manager, and Social Worker.
[15] Interviews with Former Special Education Coordinator and Case Manager.
[16] Exhibit 1, p. 1.
[17] Complaint; Interview with Parent.
[18] Interview with Case Manager, Former Special Education Coordinator, and Social Worker.
[19] Complaint, p. 4.

Separate School, and did not otherwise discuss or revise Student's IEP. Notably, Parent does not allege that the District violated IDEA by changing Student's placement, or that the change in placement was not substantively appropriate. Nor does Parent complain about the special education and related services that Student received following the change in placement. Rather, Parent alleges that Student was put at "risk for discrimination" because the IEP developed on January 9, 2013, was "invalid" and therefore Separate School was not provided with "critical information about [Student's] disabilities and unique education needs."[20] For the reasons explained below, the SCO finds that Parent had a meaningful opportunity to participate in the development of Student's January 2013 IEP.

9. On January 9, 2013, a properly constituted IEP team, including Parent, reviewed and revised Student's IEP in conjunction with Parent's request for a change in placement. The program director for Separate School was present at the meeting to describe the program and services available in consideration of a change in placement. [21]

10. During the IEP meeting, Parent and Great-Grandparent asked many questions of the program director for Separate School, including what Students' routine or school day would look like and what services [Student] would receive. They also asked about Separate School's academic program, behavioral and therapeutic counseling and whether Student would be able to have snacks at any time during the school day. The program director for Separate School answered Parent's questions about the BOCES's program in detail.

11. In addition, Parent and Great-Grandparent participated in the IEP meeting by objecting to descriptions of Student's disruptive and aggressive behavior and the inclusion of Student's disciplinary record in the IEP document. The IEP team discussed Parent's objections, but included a description of [Student's] behavior and disciplinary record in the IEP because Student's behavior was clearly impeding [Student's] ability to learn and this information was relevant to the consideration of educational needs and a more restrictive environment.[22] Finally, Parent brought Great-Grandparent and Private Therapist/Advocate with her to the meeting, both of whom actively participated in the discussions concerning a potential change of placement.[23]

12. Parent's allegation that Student's IEP team did not discuss or review [Student's] IEP at the IEP meeting on January 9, 2013, is not supported by the credible evidence. In addition to discussing the program and services available at Separate School, the IEP team discussed Student's behavioral challenges, IEP goals, accommodations, and whether Separate School was

[20] Complaint, pp. 4-5.
[21] Interviews with Former Special Education Director, Former Assistant Principal, Case Manager, and Social Worker. The SCO was not able to interview the program director for Separate School as he has retired.
[22] Complaint; Exhibit pp. 3-7; Interviews with Former Assistant Principal, Former Special Education Coordinator, Case Manager, and Social Worker.
[23] Interviews with Former Assistant Principal, Social Worker, and Case Manager.

an appropriate placement.[24] Case Manager and Social Worker recalled that it was difficult to keep the discussion focused on reviewing the specific sections of the IEP because Parent and Great-Grandparent were more interested in asking questions about Separate School.[25] The fact that Parent was more focused on asking questions of the Separate School's program director than reviewing the specific sections of Student's IEP does not mean that IEP team failed to do so or that she was denied an opportunity to participate in the development of Student's IEP.

13. In consideration of Student's educational and behavioral needs, including the results of the recent FBA, the IEP team determined that Student needed "a small self-contained structured special education program designed for students with behavioral concerns due to [Student's] high level of noncompliant and aggressive behaviors."[26] The entire IEP team, including Parent, was in agreement that Student's placement should be changed from School to Separate School. Student began attending Separate School on January 10, 2013.

14. Finally, Parent claims that she did not receive prior written notice of the change in placement.[27] In response, the District claims that Parent was provided with prior written notice through the IEP.[28] Parent claims, however, that she did not receive a copy of the IEP until February 13, 2013.

15. Because the Case Manager did not have the technological ability, i.e., a computer, to make changes to the draft IEP during the meeting, any changes made by the IEP team would have to be made after the meeting. Changes made to Student's draft IEP at the meeting included changes to the service delivery statement and present levels of academic and functional performance. During the meeting Case Manager took notes of the changes made by the IEP team so that they could be added after the meeting.[29] Due to apparent personnel issues, the changes were not made and the IEP was not finalized until on or around January 30, 2013.[30]

16. While the SCO finds that the IEP provided the information/content required for prior written notice under 34 CFR § 300.503, it is more likely than not that Parent did not receive a final copy of the IEP until the end of January 2013, approximately three weeks after the IEP meeting.[31] Since Student began attending Separate School on January 10, 2013, the day following [Student's] IEP meeting, the District clearly failed to provide prior written notice of the change in placement before it implemented the change. This three-week delay in providing prior written notice of the change in placement violates the technical requirements of 34 CFR § 300.503 that the notice be in writing and that it be provided a reasonable time before the

[24] Exhibit 4; Interviews with Former Assistant Principal, Social Worker, and Case Manager.
[25] Interviews with Former Assistant Principal, Case Manager, and Social Worker.
[26] Exhibit 2, p. 11.
[27] Complaint, p. 4.
[28] Interview with Case Manager and Special Education Director; Exhibit 7.
[29] Interviews with Case Manager and Social Worker.
[30] Interviews with Principal, Former Special Education Coordinator.
[31] Interviews with Case Manager and Former Special Education Coordinator.

District changes Student's placement. The reason for the delay in forwarding a finalized copy of Student's IEP to Parent is most likely the result of personnel issues that the District has since addressed and is not systemic in nature.[32]

17. Although the District failed to provide prior written notice of Student's change in placement, there is no evidence that the violation caused a loss of educational opportunity for Student or deprived Parent of her right to meaningfully participate in the development of Student's IEP. Due to active questioning by Parent and Great-Grandparent of the representative of Separate School, there was a robust and detailed discussion of the services that Student would receive at Separate School. As a result of this discussion, Parent knew exactly what Student's school day would look like and what services, including behavioral programming, [Student] would receive. Further, Parent herself requested the change in placement, had the opportunity to meaningfully participate in the IEP meeting where Student's placement was changed, agreed with the change in placement determined at the IEP meeting, and has not complained that the change in placement was not substantively appropriate or that Student did not receive adequate special education programming or services at Separate School. Consequently, the SCO finds that the technical violation did not result in any substantive harm to Student or Parent.

CONCLUSIONS OF LAW

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

Allegation 1(a) and 2: Parent had a meaningful opportunity to participate in the development of Student's January 2013 IEP.

1. Any analysis of the appropriateness of an IEP must begin with the standard established by the United States Supreme Court in *Rowley v. Board of Education,* 458 U.S. 176 (1982), in which the Court set out a two-pronged analysis for determining whether an IEP has offered a FAPE. The first part of the analysis looks to whether the IEP development process complied with the IDEA's procedures; the second looks to whether the resulting IEP was reasonably calculated to confer some educational benefit upon the child. *Id. at* 207; *see also Thompson R2-J School Dist. V. Luke P.*, 540 F.3d 1143, 1148 (10th Cir. 2008). If those two questions are satisfied in the affirmative, then the IEP is appropriate under the law.

2. In this case, Parent has alleged that the District violated IDEA's procedural requirement concerning parental participation, 34 CFR § 300.322, with regard to the written notice of meeting and parental participation in the development of Student's January 2013 IEP. Specifically, Parent alleges that the District violated her right to participate in the development of Student's IEP by failing to provide her with proper notice of the IEP meeting held on January 9, 2013, and by developing the IEP after the meeting and without her participation. Consequently, the SCO addresses whether the District has violated the procedural requirement

[32] Interviews with Former Special Education Coordinator and Principal.

concerning parental participation in developing Student's IEP, and if so, whether the procedural violations resulted in a denial of FAPE.

3. The IDEA's procedural requirements for developing a student's IEP are designed to provide a collaborative process that "places special emphasis on parental involvement." *Sytsema v. Academy School District No. 20*, 538 F.3d 1306, 1312 (10th Cir. 2008). Essential to a parent's ability to participate in the IEP process is the requirement that parents be invited and encouraged by the school district to attend the IEP meeting. To that end, the federal regulations specifically require that the school district notify parents of the meeting early enough that they have an opportunity to attend and "schedule the meeting at a mutually agreed on time and place." 34 CFR § 300.322(a). The invitation, or "notice of meeting" as it is commonly known, must also indicate the purpose, time, and location of the meeting, and who will be in attendance; and inform the parent that they may invite others who they believe have knowledge or special expertise regarding the child. 34 CFR § 300.322(b)(1).

4. In this case, the written notice of meeting provided by the District satisfied the content requirements of 34 CFR § 300.322(b), but was not provided to Parent until the day of the IEP meeting. Considering the specific facts of this case, the SCO concludes that the District did not violate the parental participation by delivering the written notice of meeting at the meeting itself. Although it is common for districts to provide parents with written notice ten days prior to an IEP meeting, IDEA does not specify a timeframe, and instead requires that school districts notify parents "early enough to ensure that they have an opportunity to attend." 34 CFR § 300.322(a). Here, Parent requested that an IEP meeting be held as soon as possible so that Great-Grandparent, who had flown in from Texas, could attend the meeting. In response to her request, the District scheduled an IEP meeting for the very next day. (FF 3-8).

5. While the decision to accommodate Parent's request obviously limited the District's ability to provide written notice in advance of the IEP meeting, it also demonstrated the District's effort to encourage parental participation by scheduling the meeting at a time that was not only agreeable to Parent but that would allow her to include Great-Grandparent. Rather than denying Parent's ability to participate in Student's educational programming, the District encouraged it. Further, Parent's conduct demonstrated that she knew the purpose, date, time, and location of the meeting; who would be in attendance; and her ability to invite others to attend. Most importantly, Parent actively participated in the IEP meeting. Considering all of these facts together, the SCO concludes that the District did not violate 34 CFR § 300.322 by failing to provide written notice of the IEP meeting until the day of the meeting. The SCO notes that this conclusion is based on the unique circumstances of this case. (FF 3-8).

6. The SCO now turns to Parent's allegation that the District denied her right to participate in the development of Student's January 2013 IEP. Although the emphasis on parental involvement does not mean that a parent has veto power over an IEP team decision, meaningful parent participation is prevented when an educational agency has made its

determination prior to the IEP meeting, including when the agency presents one placement option at the IEP meeting and is unwilling to consider others. *See Ms. S. ex. rel. G. v. Vashon Island School Dist.,* 337 F.3d 1115, 1131 (9th Cir. 2003)("A district may not enter an IEP meeting with a 'take it or leave it' position."); *Ms. S v. Vashon Sch. Dist.*, 39 IDELR 154 (9th Cir. 2003). When parents are prevented from meaningful participation because an aspect of their child's IEP, such as placement, has been predetermined, the resulting procedural violation denies the student a free appropriate public education. *Deal v. Hamilton County Bd. of Educ.,* 42 IDELR 109 (6th Cir. 2004), *cert denied,* 546 U.S. 936 (2005). On the other hand, courts have found that parents have been afforded an opportunity for meaningful participation when an educational agency considers their suggestions and requests, and to the extent appropriate, incorporates them into their child's IEP. *O'Toole v. Olathe Dist. Schools,* 144 F.3d 692, 107 (10th Cir. 1998).

7. In this case, Parent actively participated in the IEP meeting on January 9, 2013, a meeting which included the review and development of Student's January 2013 IEP. Throughout the meeting, Parent and Great-Grandparent asked questions about the program at Separate School, the specific program requested by Parent as a proposed change of placement. In fact, several members of the IEP team recalled that it was difficult to keep the discussion focused on reviewing the various sections of the IEP, such as annual goals and accommodations, because Parent and Great-Grandparent were primarily focused on Separate School. Notably, Parent has not alleged that Student's placement was predetermined. (FF 8-13).

8. Parent and Great-Grandparent also participated in the IEP meeting by voicing their objections to descriptions of Student's disruptive behavior and disciplinary record being included in the IEP. In response, the IEP team discussed Parent's request to eliminate some descriptions of Student's behavior from the IEP, but concluded that this information was necessary in describing Student's unique needs. There is simply no credible evidence to suggest that Parent did not have a meaningful opportunity to participate in the development of Student's IEP—even though she may have preferred to focus on her questions about Separate School, rather than discussions concerning Student's annual goals, and accommodations. (FF 8-13).

9. When, as here, a student's IEP is developed in compliance with the IDEA's procedural requirements, *Rowley* holds that a certain degree of deference is to be given to the resulting IEP. "We think that the congressional emphasis upon full participation of concerned parties throughout the development of the IEP … demonstrates the legislative conviction that adequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP." *Rowley,* 458 U.S. at 206. Because the District complied with IDEA's procedural requirement concerning parental participation and Parent has presented no evidence or argument challenging the appropriateness of Student's IEP, the SCO concludes that Student's January 2013 IEP was substantively appropriate, i.e., reasonably calculated to confer some educational benefit.

Allegation 1(b): Although the District failed to provide Parent with prior written notice concerning a change in educational placement consistent with 34 CFR § 300.503, the violation did not result in substantive harm.

10. A school district must give a parent prior written notice a reasonable time before it proposes or refuses to change the educational placement of a child. 34 CFR § 300.503(a). The district is required to provide prior written notice even when, as here, it is agreeing with a change of placement requested by the parent. *Letter to Lieberman*, 52 IDELR 18 (OSEP 2008)("[I]n circumstances where the public agency is not proposing a change, but rather agreeing with a change that has been proposed by a parent, the public agency would be required to provide prior written notice to the parent, consistent with 34 CFR § 300.503."). Verbal notice, even if substantively proper, does not satisfy the requirement of prior written notice under IDEA. *Pikes Peak Bd. of Cooperative Educ. Services*, 9 ECLPR 15 (SEA CO 2011).

11. In this case, the District used Student's IEP to serve as prior written notice of the change of placement that was determined by Student's IEP team on January 9, 2013. A school district may use the IEP document to provide prior written notice, as long as the IEP includes all of the content required by 34 CFR § 300.503(b). 71 Fed. Reg. 46691(Comments to the 2006 federal IDEA regulations); *Letter to Lieberman*, 52 IDELR 18 (OSEP 2008). In this case, Student's IEP contained the content required to constitute prior written notice. (FF 16).

12. Although Student's IEP included the content required by 34 CFR § 300.503(b), the District did not send Parent a copy of the IEP until the end of January 2013, nearly three weeks after it implemented the change of placement from School to Separate School on January 10, 2013. (FF 14-15). While the IDEA and its implementing regulations do not provide a specific timeline within which a school district must provide prior written notice, a school district must provide the notice "a reasonable" time before it implements the proposed change. 34 CFR § 300.503(a); 71 Fed. Reg. 46691 (Comments to the 2006 federal IDEA regulations); *Letter to Chandler*, 59 IDELR 110 (OSEP 2012). "This provides parents, in the case of a proposal or refusal to take action, a reasonable time to fully consider the change and respond to the action before it is implemented." *Letter to Chandler*, 59 IDELR 110 (OSEP 2012). The District's failure to provide prior written notice a reasonable time *before* implementing the change in placement resulted in a violation of 34 CFR § 300.503.

13. However, it is well-settled that procedural violations of the IDEA are only actionable to the extent that they impede the child's right to FAPE, significantly impede the parents' opportunity to participate in the decision-making process regarding the provision of FAPE, or cause a deprivation of educational benefit. 20 U.S.C. §1415(f)(3)(E)(ii); 34 C.F.R. § 300.513(a)(2); *Sytsema v. Academy Sch. Dist. No. 20,* 538 F.3d 1306 (10th Cir. 2008). In this case, Parent attended and participated in the IEP meeting during which the change of placement was considered and determined, a change she herself requested. Due to her active participation, specifically the questions she asked of the program director of Separate School, Parent knew what programming and services Student would be receiving at Separate School. (FF 8-12 and

17). Further, Parent has not complained that Student's placement was substantively inappropriate, i.e., not reasonably calculated to confer some educational benefit, or caused any educational harm. (FF 8). Consequently, the SCO concludes that the District's failure to provide prior written notice of the proposed change of placement did not result in substantive harm to Student or Parent that would entitle Student to individualized relief.

REMEDIES

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

a) Failing to provide parents with prior written notice a reasonable time before implementing a change in educational placement, consistent with 34 CFR § 300.503(a).

To remedy this violation, the District is ordered to take the following actions:

1) **By September 10, 2013**, the District must submit to the Department a proposed corrective action plan (CAP) that addresses the violation noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom the District is responsible. The CAP must, at a minimum, provide for the following:

   a) Submission of compliant, written policies and procedures and, as applicable, compliant forms that address the cited violation, no later than September 10, 2013.

   b) Effective training must be conducted for all Special Education Directors and intended designees concerning the policies and procedures, to be provided no later than October 25, 2013.

   c) Evidence that such training has occurred must be documented (i.e., training schedule(s), agenda(s), curriculum/training materials, and legible attendee sign-in sheets) and provided to CDE no later than October 31, 2013.

The Department will approve or request revisions to the CAP. Subsequent to approval of the CAP, the Department will arrange to conduct verification activities to verify the District's timely correction of the areas of noncompliance. At the request of the District, CDE is willing and able to provide the training specified above. Should the District choose to request training from CDE, it must coordinate any such training with Joyce Thiessen-Barrett.

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

Colorado Department of Education
Exceptional Student Services Unit
Attn.: Joyce Thiessen-Barrett

1560 Broadway, Suite 1175
Denver, CO 80202-5149

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

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. If either party disagrees with this Decision, their remedy is to file a Due Process Complaint, provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *See,* 34 CFR § 300.507(a) and Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 156, 46607 (August 14, 2006).

This Decision shall become final as dated by the signature of the undersigned State Complaints Officer.

Dated this 15st day of August, 2013.

Candace Hawkins

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Candace Hawkins, Esq.
State Complaints Officer

Appendix

Complaint, pages 1-10.

Exhibit A: Notice of Meeting for January 2013 IEP meeting.
Exhibit B: January 2013 IEP.
Exhibit C: Statement from Parent concerning alleged violation occurring more than 12 months prior to filing of Complaint.
Exhibit D: District generated IEP compliance checklist.
Exhibit E: Notice of Meeting and evaluation report for April 2012 IEP.
Exhibit F: Blank PWN, eligibility, and IEP forms.
Exhibit G: IEP amendment dated October 2012.

Response, page 1.
Exhibit 1: Notice of Meeting dated January 8, 2013.
Exhibit 2: January 2013 IEP.
Exhibit 3: IEP amendment dated May 1, 2012.
Exhibit 4: Notice of Meeting and IEP dated April 2012.
Exhibit 5: IEP dated March 2012.
Exhibit 6: IEP dated April 18, 2013.
Exhibit 7: Email correspondence. (Documentation requested by SCO).

I**nterviews with:**

- Special Education Director
- Former Special Education Coordinator
- Separate School Principal
- Case Manager
- Social Worker
- Former Assistant Principal
- Principal
- Parent