

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

**State-Level Complaint 2022:545
Roaring Fork School District**

DECISION

INTRODUCTION

On September 21, 2022, 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-level complaint (“Complaint”) against the Roaring Fork School District (“District”). The State Complaints Officer (“SCO”) determined that the Complaint identified six (6) 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. Therefore, the SCO has jurisdiction to resolve the Complaint.

RELEVANT TIME PERIOD

Pursuant to 34 C.F.R. §300.153(c), the Colorado Department of Education (“CDE”) has the authority to investigate alleged violations that occurred not more than one year from the date the original complaint was filed. Accordingly, this investigation will be limited to the period of time from September 21, 2021 through September 21, 2022 for the purpose of determining if a violation of IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations. Findings of noncompliance, if any, shall be limited to one year prior to the date of the complaint.

SUMMARY OF COMPLAINT ALLEGATIONS

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

1. Failed to properly implement Student’s IEP from September 21, 2021 to present, in violation of 34 C.F.R. § 300.323, specifically by:
 - a. Failing to ensure that Student’s teachers and service providers were informed of their responsibilities under Student’s IEP and the accommodations, modifications, and supports required by his IEP;

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.

- b. Failing to provide Student the special education and related services required by his IEP;
 - c. Failing to provide Student the accommodations required by his IEP; and
 - d. Failing to follow Student's Behavioral Intervention Plan.
2. Convened an IEP Team meeting in December 2021 without all required IEP team members, in violation of 34 C.F.R. § 300.321.
3. Deprived Parent of meaningful participation in the IEP Team meeting held in December 2021, in violation of 34 C.F.R. §§ 300.321(a)(1), 300.324(a)(1)(ii), and 300.501(b)-(c).
4. Failed to provide Parent with a copy of Student's new IEP between December 2021 and August 2022, in violation of 34 C.F.R. § 300.322(f).
5. Failed to develop, review, and revise an IEP during the 2021-2022 school year that was tailored to meet Student's individualized needs, in violation of 34 C.F.R. §§ 300.320 and 300.324, specifically by:
 - a. Failing to review Student's IEP at least annually;
 - b. Failing to consider the results of the most recent evaluation of Student;
 - c. Failing to consider the academic, developmental, and functional needs of Student;
 - d. Failing to consider any lack of expected progress towards annual goals and in the general education curriculum;
 - e. Failing to consider the use of positive behavioral interventions and supports; and
 - f. Failing to include appropriate measurable postsecondary goals and the transition services needed to reach those goals.
6. Failed to provide Parent with periodic reports on Student's progress between September 21, 2021 and present, in violation of 34 C.F.R. § 300.320(a)(3)(iii).

FINDINGS OF FACT

After thorough and careful analysis of the entire Record,² the SCO makes the following FINDINGS:

² The appendix, attached and incorporated by reference, details the entire Record.

A. Background

1. Student is 16 years old, twice exceptional, and gifted and talented with visual spatial processing but struggles with writing and behavior. *See Exhibit A*, p. 4. Student qualifies for special education and related services under the Serious Emotional Disability category, with a secondary disability in Specific Learning Disability. *Id.*
2. This investigation concerns the 2021-2022 academic year, during which Student attended 9th grade at a District high school (“School”). *Id.* at p. 18. When classes started in the fall of 2021, Student’s December 20, 2020 IEP was in effect (“2020 IEP”). *See Id.* at pp. 2-17.

B. The 2020 IEP

3. The 2020 IEP documented Student’s strengths, preferences, and interests, including that his biggest strength lies in visual spatial processing, that he is interested in computers and computer games, and that he struggles with writing tasks – particularly when the prompt or task is “specific.” *Id.* at p. 4.
4. The 2020 IEP reviewed present levels of performance, documenting grades, the results of the most recent reevaluation, and Student’s scores on general assessments. *Id.* at pp. 4-8.
5. The Student Needs and Impact of Disability section documented that when Student becomes escalated or withdrawn, he is unable to successfully participate in classes or school activities. *Id.* at p. 8. When Student’s behaviors escalate, he often leaves the room or disrupts the learning of other students. *Id.* Student’s struggles with written expression prevent him from communicating in writing in his classes. *Id.*
6. The Parent/Student Input section contained input from Parent, including that Student’s aggression at school has decreased, but his aggression at home has increased. *Id.* Parent also reported that Student has an outside diagnosis of [] that she requested be added to the IEP. *Id.*
7. The 2020 IEP contained the following annual goals:
 - a. Goal No. 1 – Social/Emotional Wellness: “In counseling sessions with the school mental health provider, [Student] will demonstrate perspective taking skills when given real or imagined scenarios on 4/5 trials.”
 - b. Goal No. 2 – Social/Emotional Wellness: “When escalated, prior to removing himself from the setting, [Student] will identify a safe space and communicate where he is going with an adult to reduce elopement from 5 times per week to 1 or less times per week.”

- c. Goal No. 3 – Writing: “[Student] will increase his writing production from 1 complete sentence to 5 complete sentences with capital letters, subject verb agreement, and basic end punctuation in free writing.”

Id. at pp. 9-10.

8. The 2020 IEP contained accommodations to help Student access the general education curriculum, including extended time to complete assignments and/or assessments, positive feedback and reinforcement with verbal praise and/or a prize (e.g., candy), and allowing Student to verbally explain answers to show his knowledge if writing is not being assessed. *Id.* at p. 11. The 2020 IEP also contained several accommodations specific to writing, such as reading Student’s sentences aloud to give him an opportunity to hear and correct errors and providing a word bank for assignments to generate ideas in writing. *Id.*
9. The 2020 IEP indicated that Student would receive extended time (time and a half) and a small group setting for the preliminary SAT (“PSAT”). *Id.* at p. 12.
10. The Service Delivery section provided for:
 - a. 30 minutes/monthly – indirect case management from a special education teacher;
 - b. 80 minutes/monthly – direct behavior intervention from a school counselor;
 - c. 120 minutes/monthly – direct counseling services from a social worker;
 - d. 800 minutes/monthly – direct specialized academic support from a special education teacher; and
 - e. 120 minutes/monthly – direct specialized academic instruction in writing from a special education teacher.

Id. at p. 17.

11. The IEP Team determined it was appropriate for Student to be placed in the general education class at least 80 percent of the time. *Id.* at p. 16.

C. The 2020 BIP

12. The 2020 IEP was accompanied by a behavior intervention plan (“2020 BIP”). *Exhibit B*, pp. 2-6.
13. The 2020 BIP’s strength-based profile section documented that Student’s biggest strengths and interests were visual spatial processing, computers, and computer games. *Id.* at p. 2. Student is “very smart and independent in his thinking” and he has a strong and trusted relationship with his middle school special education teacher. *Id.*

14. The 2020 BIP indicates that it was developed through a functional behavioral assessment (“FBA”) conducted using teacher consultation, observation, and a records review. *Id.*
15. The FBA summary statement indicated that when Student is asked to complete a non-preferred task or denied access from a preferred task, Student can become verbally or physically aggressive, “shut down,” or elope to a safe place to avoid completing the task. *Id.* Student uses this time to de-escalate, however he struggles with reconciliation. *Id.* Student’s perception of the situation can be skewed as he has a difficult time consistently taking another individual’s perspective when he is feeling upset. *Id.*
16. The strategies/outcomes worksheet envisioned a setting where Student is given opportunities to process with a trusted adult at School before being asked to engage in a non-preferred task. *Id.* at pp. 2-3. Teachers should also allow Student access to snacks, as Student often escalates when he is hungry. *Id.*
17. Antecedent strategies included preferred seating in class away from non-supportive peers, flexibility in Student’s participation in small groups (allowing him to work independently if needed) and allowing Student to work at a separate space (either in the classroom, hallway, or another “safe space”). *Id.*
18. The behavior teaching strategies section indicated Student would get weekly check ins by the school mental health provider focusing on social skills, perspective taking, and building trust with others. *Id.* This section further indicated the positive behaviors for Student that would produce positive rewards included following classroom routines, showing respect when speaking to a peer or adult, asking for help, and completing his work and showing progress in academics. *Id.* The SCO finds, in consultation with CDE Content Specialist 1, that while the 2020 BIP discussed the behavior that should be taught to Student it lacked information about teaching strategies. *Consultation with CDE Content Specialist 1.*
19. Reinforcement strategies in the 2020 BIP included positive behavior awards (“lunch dates” with teachers, candy, or free choice time in a space Student enjoys) to be “implemented and used at times with [Student] when is willing to participate.” *Exhibit B*, pp. 2-3. The 2020 BIP indicated positive rewards for completing work could also be provided at home through communication by general education teachers or special education teachers. *Id.* at p. 3.
20. A crisis intervention plan provided that if Student engages in behavior that has the potential to produce harm to self or others: (1) expectations should be repeated in a concise manner; (2) Student will be offered the option to work in a different area – either a separate space in the classroom or a “safe place” (which at the time included the middle school media center, counselor’s office, or special education classroom); (3) if Student is unwilling to leave, then administration will be called to assist removing Student from the classroom; (4) depending on behavior and/or if harm is done to others, Student should be taken to a separate

environment; (5) once Student is calm, then “there is to [be] a time to discuss the situation what happened, solution and consequences as a sense of closure”; and (6) if Student is removed from the classroom and escalated (throwing things, yelling) then Parent should be notified, and administration should decide if “other supports need to be called in” or Student should be sent home (depending on the situation). *Id.* at pp. 4-5.

21. The criterion for success indicated Student would decrease the occurrence of “the behavior of greatest concern” by following classroom routines, showing respect when speaking to peers and adults, keeping his hands off peers and their belongings, using coping strategies effectively, asking for help from an adult when feeling threatened by others, completing work, and continually showing progress in academics. *Id.* at p. 5.
22. The 2020 BIP indicated that Student’s case manager was responsible for ensuring teachers and service providers were aware of their responsibilities; however, the 2020 BIP also indicated Student’s special education case manager, special education teachers, social worker, school counselor, and administration would support general education teachers with the plan. *Id.*
23. Parent’s concern is that District failed to implement the 2020 IEP and 2020 BIP during the 2021-2022 academic year. *Interview with Parent; Complaint*, pp. 1-16; *Reply*, pp. 1-22. Specifically, Parent is concerned that (1) teachers and service providers were not informed of their responsibilities under the 2020 IEP and 2020 BIP; (2) Student was not provided with the special education and related services he was entitled to under the 2020 IEP; (3) Student was not provided with specialized instruction and academic support by an appropriately licensed special education teacher as required by the 2020 IEP; (4) Student was not provided with accommodations on the PSAT in September of 2021; and (5) Student was not provided with general classroom accommodations as required by the 2020 IEP.

D. Implementation of the 2020 IEP and 2020 BIP (August through December 2021)

24. Parent’s first implementation concern is that District failed to adequately inform Student’s teachers and service providers of their responsibilities under the 2020 IEP and 2020 BIP.

1. IEP and BIP Accessibility to Student’s Teachers

25. Former Case Manager oversaw the 2020 IEP during the 2021-2022 academic year. *Interview with Former Case Manager*. In August, during orientation, Former Case Manager met with Parent to discuss Student’s needs and the plan for the year. *Interviews with Parent and Former Case Manager*. Former Case Manager also met with Student during the first week of classes to discuss working together, although the conversation was “very one sided” and Student was “very withdrawn.” *Interview with Former Case Manager*.

26. On August 13, 2021, Former Case Manager sent an email containing a snapshot of the 2020 IEP to Student's teachers. *Exhibit L*, p. 64; *Interview with Former Case Manager*. The snapshot contained the accommodations/modifications, the service delivery statement/grid, and annual goals. *Exhibit L*, pp. 64-70. Former Case Manager indicated that, following this, he had regular conversations with teachers and service providers throughout the year about Student's progress. *Interview with Former Case Manager*.
27. Although the snapshot of the 2020 IEP sent by Former Case Manager indicated that Student had a behavior plan, Former Case Manager did not provide staff with a copy of the 2020 BIP. *Id.*; see *Exhibit L*, pp. 64-70. Former Case Manager indicated he thought this was School Psychologist's responsibility. *Interview with Former Case Manager*.
28. School Psychologist indicated that it was Former Case Manager's responsibility to inform staff of their responsibilities under the 2020 BIP, and he took no steps to train staff on their responsibilities under the plan. *Interview with School Psychologist*.
29. General Education Teacher, Student's geography teacher, was provided with the snapshot of the 2020 IEP, but indicated she was never provided with the 2020 BIP or involved in any discussions about the 2020 BIP at any point throughout the year. *Interview with General Education Teacher*. General Education Teacher further indicated that teachers would regularly email Former Case Manager and other staff members about assignments that were done in class, and there were regular communications about students among all freshman teachers, but she was not part of any regular meetings or conversations directly with Former Case Manager or School Psychologist about Student. *Id.*
30. The SCO finds—based on the contradictions between accounts of Former Case Manager and General Education Teacher about ongoing collaboration, and Former Case Manager's failure to provide teachers and service providers with the 2020 BIP—that District failed to adequately inform teachers and service providers of their responsibilities under the 2020 BIP, and by extension, the 2020 IEP.

2. Implementation - Special Education and Related Services

31. Parent's second implementation concern is that Student was not provided with any of the special education and related services he was entitled to under the 2020 IEP. *Complaint*, p. 5. District's position is that Student received the special education and related services he was entitled to under the 2020 IEP, and the 2020 IEP was properly implemented. *Response*, p. 4. The SCO will now analyze each of Student's services under the 2020 IEP.

a. Specialized Instruction and Academic Support

32. The 2020 IEP provided for 120 minutes per month of direct specialized academic instruction and 800 minutes per month of direct specialized academic support. *Exhibit A*, p. 15. Former

Case Manager was responsible for providing Student with these services under the 2020 IEP. *Interview with Former Case Manager.*

33. Former Case Manager had Student in class for “content support” from two to two and half days each week, which is where Student received specialized instruction and academic support services. *Interview with Former Case Manager.* During the “content support” class, Former Case Manager worked directly with Student, talking to him about passing classes and working on assignments. *Id.* Some of the time was spent teaching Student content, and the rest of the time was more like a “study hall” where work was done on assignments. *Id.* During this time, however, Former Case Manager indicated Student rarely did more than the “bare minimum” and would often “shut down and do no work” and give “attitude or push back.” *Id.*
34. Student’s transcript confirms that he attended “content support” during the fall of the 2021-2022 academic year, and that he received a mark of “P” for passing. *Exhibit H*, p. 9. Student’s attendance report likewise confirms that Student attended “content support” with only three absences for the semester. *Id.* at p. 10.
35. The SCO finds—based on Former Case Manager’s detailed account about the “content support” class and Student’s difficulties within the class, and support for Former Case Manager’s account in Student’s transcript and attendance records—that Student received academic instruction and support services as required under the 2020 IEP.

b. Indirect Case Management

36. Former Case Manager was also responsible for providing Student with 30 minutes of indirect case management each month under the 2020 IEP. *Exhibit A*, p. 17.
37. Former Case Manager explained that the 30 minutes of indirect case management consisted of conversations with teachers and/or School Psychologist about Student, usually around strategies for encouraging Student to complete work and turn in assignments. *Interview with Former Case Manager.* School Psychologist confirmed that he regularly met with Former Case Manager about Student, and meetings with Former Case Manager are documented on School Psychologist’s service logs. *Interview with School Psychologist; Exhibit G*, pp. 3-4.
38. The SCO finds—based on corroboration between Former Case Manager and School Psychologist’s accounts, and support for their accounts in School Psychologist’s service logs—that Student was provided with 30 minutes of monthly indirect case management as required under the 2020 IEP.

c. Counseling and Behavioral Intervention Services

39. The 2020 IEP also provided for 120 minutes per month of direct counseling services and 80 minutes per month of behavior intervention services. *Exhibit A*, p. 15. School Psychologist was responsible for providing these services under the 2020 IEP. *Interviews with School Psychologist and Former Case Manager*.
40. School Psychologist indicated that he met regularly with Student throughout the year, speaking with him and working on “skills” and addressing some of the issues that Student struggled with in middle school, such as aggression and elopement. *Interview with School Psychologist*. Neither aggression nor elopement were observed at School, but they were areas of concern in middle school, and School Psychologist discussed the changes with Student (although School Psychologist indicated it took almost the whole 2021-2022 academic year to build rapport with Student). *Id.*
41. Service logs document monthly meetings between School Psychologist and Student, but the documented service minutes fall short of those required by the 2020 IEP (e.g., the service logs document a total of 60 minutes for the month of September, while the 2020 IEP provides for a total of 80 minutes/month of direct behavioral intervention and 120 minutes/month of direct counseling services). *Exhibit G*, p. 3; *see Exhibit A*, p. 17. School Psychologist indicated there are entries on the service logs for the times he met with Student; however, he added that there were multiple occasions when Student did not appear for counseling sessions. *Interview with School Psychologist*.
42. School Psychologist provided detailed explanations of the counseling services he provided to Student, discussing Student’s presentation, Student’s reluctance to “open up” and share information, and Student’s struggles with receptive versus expressive processing. *Id.* However, School Psychologist’s descriptions of the behavioral intervention services he provided were extremely vague in comparison. *Id.*
43. School Psychologist was unable to provide clear examples of any behavioral interventions provided to Student or explain how the interventions differed from the counseling sessions, and School Psychologist’s description of Student’s behavior at School was significantly different than that of his teachers (School Psychologist indicated Student’s behavior was not a concern during the 2021-2022 academic year, despite nearly every one of Student’s teachers and Former Case Manager expressing concerns about his behaviors at multiple points throughout the year). *Interviews with School Psychologist, Former Case Manager, and General Education Teacher*. There is no documentation to provide evidence of any behavioral intervention services provided to Student. *See Exhibit G*, pp. 2-19.
44. The SCO finds—based on School Psychologist’s detailed description of the counseling sessions, service logs documenting monthly counseling sessions with School Psychologist, and School Psychologist’s explanation for the missed sessions—that Student received direct counseling services as required by the 2020 IEP. The SCO also finds—based on School Psychologist’s inability to provide similar details about behavioral interventions, the lack of

documentation about behavioral interventions, and School Psychologist's lack of information about Student's behavior at School—that Student did not receive the 80 minutes of monthly behavioral intervention services he was entitled to under the 2020 IEP.

3. Former Case Manager's Credentials

45. Parent's third implementation concern is that Former Case Manager was not appropriately licensed as a special education teacher during the 2021-2022 academic year, and thus, was not credentialed to provide indirect case management, academic instruction, and academic support services to Student as required by the 2020 IEP. *Reply*, p. 4. The 2020 IEP provided that 30 minutes per month of indirect case management, 120 minutes per month of direct specialized academic instruction, and 800 minutes per month of direct specialized academic support would be provided by a licensed special education teacher. *See Exhibit A*, p. 15.
46. Former Case Manager indicated that he held an "emergency license" to teach special education during the 2021-2022 academic year. *Interview with Former Case Manager*. During the 2020-2021 academic year, Former Case Manager was a student teacher for one semester and a full-time substitute during the following semester. *Id.* For the 2021-2022 academic year, Former Case Manager became a full-time special education teacher and case manager on an "emergency license" basis and oversaw a caseload of approximately 19-21 IDEA-eligible students. *Id.*
47. Director of Special Education, however, concedes that Former Case Manager was not appropriately licensed to teach special education during the 2021-2022 academic year. *Interview with Director of Special Education*. Former Case Manager's licensure status was "flagged" during the end of the year count for the 2021-2022 academic year, and Former Case Manager soon thereafter left his position with District after District inquired about his teaching credentials. *Id.*
48. The SCO finds that—because Former Case Manager was not appropriately licensed as a special education teacher during the 2021-2022 academic year yet provided Student with indirect case management, specialized instruction, and specialized academic support services under the 2020 IEP—District failed to properly implement the 2020 IEP with respect to Student's indirect case management, specialized instruction, and specialized academic support services.

4. Accommodations During the September 2021 PSAT

49. Parent's fourth implementation concern is that Student was not provided with accommodations during the PSAT in September of 2021. *Complaint*, p. 3; *Interview with Parent*. District counters that documentary evidence provided to the SCO demonstrates that District requested accommodations for the PSAT on Student's behalf, and further that the accommodations were approved and provided to Student. *Response*, p. 8.

50. The 2020 IEP provided for extra time (time and a half) and a small group setting for the PSAT. *Exhibit A*, p. 13.
51. Student took the PSAT on September 29, 2021, and again on April 13, 2022. *Exhibit I*, pp. 29, 33. Documentary evidence provided by District indicates Student's accommodations for the PSAT were approved on January 15, 2022, four months after Student took the September 2021 PSAT. See *Exhibit G*, p. 6. While documentary evidence demonstrates Student had accommodations for the April 2022 PSAT, there is no evidence in the Record to demonstrate Student received accommodations on the September 2021 PSAT. See *Exhibit L*, pp. 181-182. The SCO accordingly finds that Student was not provided with this accommodation for the September 2021 PSAT consistent with the 2020 IEP.

5. *Classroom Accommodations (August through December 2021)*

52. Parent's fifth implementation concern is that Student was not provided with classroom accommodations that he was entitled to under the 2020 IEP in any class. *Interview with Parent; Complaint*, p. 5. Parent met with several of Student's general education teachers in October of 2021 for parent/teacher conferences, and none of the teachers she spoke to had details about Student's struggles with writing, which Parent claims demonstrates that he was not being provided with writing accommodations in class. *Interview with Parent*.
53. The SCO finds that the 2020 IEP snapshot provided to teachers in August of 2021 did not contain specific details about the nature of Student's writing struggles, although it did contain information about Student's classroom accommodations, including those specific to writing. *Exhibit L*, p. 70. Nevertheless, the SCO also finds that District should have included information about how Student's disability impacted him in writing, particularly as it relates to behavior, so teachers would know why they were providing the accommodations. *Consultation with CDE Content Specialist 3*. This is especially true when, as here, there was no ongoing conversations and collaboration with teachers about Student's needs. *Id.*
54. General Education Teacher indicated that while she did not have access to the 2020 BIP, she did receive the snapshot of the 2020 IEP, and Student was provided with accommodations, including those specific to writing. *Interview with General Education Teacher*. She provided the SCO with numerous detailed examples of these accommodations, to include preferential seating, giving Student the opportunity to modify or shorten his way of giving answers (e.g. on a writing piece, if students were expected to write three paragraphs, Student could write one), providing Student with outlines as an option for writing (adding more structure could overwhelm Student so General Education Teacher made it optional for him), and giving him the option of answering verbally instead of in writing. *Id.*
55. General Education Teacher further indicated she provided Student the opportunity for breaks as needed but explained that she did not think he had identified a "safe place" and

would either go to the bathroom and get water or take a short walk through the hallways. *Id.* The SCO finds that General Education Teacher’s credible description about Student receiving accommodations in class are also supported by the written record (e.g., in a December 1, 2021 email, Student’s math teacher mentions providing Student with extra time on quizzes and tests). *See, e.g., Exhibit L, p. 86*

56. The SCO finds—based on the highly detailed account of General Education Teacher and support for her account in the written Record—that Student was provided with classroom accommodations as required by the 2020 IEP.

E. Student’s Progress and Behavior (August through November 2021)

57. From August through November of 2021, Student demonstrated minimal progress in his classes, and turned in few, if any, assignments. *Interviews with Former Case Manager and General Education Teacher; Exhibit L, pp. 74-75.* Although teachers and service providers did not receive a copy of the 2020 BIP, Student did not demonstrate any elopement or aggression described by the 2020 BIP, and he was not subject to any disciplinary referrals. *Interviews with Former Case Manager, General Education Teacher, Parent, and Director of Special Education; Response, pp. 8-9.* Instead, Student’s teachers reported that he was withdrawn and isolated and expressed concerns about work refusal and refusal to put away his phone in class. *Interviews with Former Case Manager and General Education Teacher.*

58. In October of 2021, around the time of parent/teacher conferences, several teachers emailed each other to express concerns about Student’s behavior in advance of a conference with Parent. *See Exhibit L, pp. 74-75; Interview with General Education Teacher.* Student’s Spanish teacher indicated Student “doesn’t work in my class unless I sit next to him” and General Education Teacher wrote that Student “does very little for me and will not let me help him” and “[o]ften uses phone during class and gets pretty frustrated at me if I try to help.” *Exhibit L, p. 74.*

59. On November 30, 2021, in advance of Student’s annual IEP review, Former Case Manager emailed Student’s teachers to request information about how Student was doing in class, as well as information about his progress toward annual goals. *Id.* at pp. 81-84, 86-93. All teachers who responded indicated significant concerns with progress and behavior. *Id.* The responses included the following statements:

- Student is “mostly silent and rarely seems to do much work, refusing help and only showing us grades or work when pressed. His attachment to headphones and his phone are problematic.” *Id.* at p. 81. Student “often seems brooding and angry; he hasn’t seemed to open up to anyone in the class. . . he seems like a good kid, but it’s hard to get a sense of where he’s at.” *Id.*

- Student’s “grade in Strength and Conditioning keeps going down due to the fact that he doesn’t put much effort into anything!!!” *Id.* at p. 83. “[U]nless his effort greatly improves the next couple of weeks there’s a good chance he’ll end up with an F.” *Id.*
- Student “has a very calm demeanor in Algebra 1. He has a great attendance record and arrives on time. He has been working on quizzes and tests with accommodated extra time. It helps that he knows he can finish his work in the Support Class with [Former Case Manager].” *Id.* at p. 86. “I would love to see his phone hung up or put away as it is a distraction for him. He is bright and I know he can do this math work[.] I would love to keep encouraging him to engage a little more.” *Id.*
- Student is “definitely lagging behind the rest of the class. He’s about halfway through our quarter unit and is making progress, but very slowly.” *Id.* at p. 88. “He has yet to ask for any assistance on assignments and is off-task more often than not. I’m unsure of the full extent to which he is grasping the material.” *Id.*
- Student “seems uncomfortable in class. The last few weeks, I’ve seen a bit more of an easing, but he rarely does any work.” *Id.* at p. 90.
- Student “has not done any work for me this year. I did help him with a slideshow presentation, but he never submitted it.” *Id.* at p. 92. “When [Student] gets upset in my class he puts his head down and won’t engage.” *Id.* “He wears his hood over his ears and on most days has headphones in the entire class.” *Id.*

60. On October 14, 2021, a progress report was generated detailing Student’s progress toward annual goals. *See Exhibit F*, pp. 2-3. Former Case Manager indicated he provided the progress report to the main office to be mailed to Parent along with report cards. *Interview with Former Case Manager*. The progress report indicated Student met Goal No. 2 – Social/Emotional Wellness (which targeted reducing elopement), while in middle school, and reported the following for Goals No. 1 and 3 (which targeted perspective taking skills and writing production skills, respectively):

- a. Goal No. 1 – Social/Emotional Wellness: – Progress Made – “[Student] has done a good job communicating with myself and the school mental health provider so far throughout the school year.”
- b. Goal No. 3 – Writing: – Insufficient Progress Made – “[Student] has not turned enough work in to measure progress on this goal.”

Exhibit F, pp. 2-3.

F. Student's Annual IEP Review Meeting (December 6, 2021)

61. Parent's concern is that District held an IEP review meeting without all required members of the IEP Team because District held the meeting without her presence, denying her meaningful participation in the development of Student's IEP. *Complaint*, p. 4.
62. On November 29, 2021, Parent was provided with Notice of Meeting for Student's annual IEP review meeting, which was scheduled for December 2, 2021 at 7:30 a.m. *Exhibit D*, p. 2. Former Case Manager also emailed Parent to confirm the date and time of the meeting. *Exhibit L*, p. 79. Parent responded and requested that the IEP meeting be rescheduled to 10 a.m. See *id.* at pp. 80, 85; *Interviews with Former Case Manager and Parent*.
63. On December 2, 2021, ten minutes before the IEP meeting was scheduled to begin, Parent emailed Former Case Manager and again requested that the meeting be rescheduled. *Exhibit L*, p. 94. Parent apologized for the late notice and indicated that she was unable to attend. *Id.*
64. During interviews, Parent explained that the night prior to the scheduled IEP meeting, she went to the hospital, and was thereafter released home. *Interview with Parent*. Hospital staff told Parent that she might need to return to the hospital, and around the time of the scheduled IEP meeting, she was told to return immediately to the hospital where she remained until December 14, 2021. *Id.* Parent indicated she had her phone at the hospital, and she attempted to call Former Case Manager several times, but could not reach him, and did not receive a return call. *Id.*
65. On Monday, December 6, 2021, Former Case Manager emailed Parent and indicated that he "talked with the team" and decided to "hold [Student's] meeting together today. I will meet with [School Psychologist] and [General Education Teacher] and finish up [Student's] IEP and once completed will get that over to you." *Exhibit L*, p. 94. He added "[i]f you would like to meet via a phone conversation to go over things later tonight I would be happy to give you a call . . . Hope everything is going better and that you are feeling 100%." *Id.*
66. Parent indicated she tried to call back three times but never received a response from Former Case Manager. *Interview with Parent*. Former Case Manager indicated he never heard back from Parent, and generally received no response when he attempted to contact her. *Interview with Former Case Manager*.
67. Former Case Manager explained he was trained by District that if staff make three or more unsuccessful attempts to secure a parent's presence at an IEP meeting, the meeting can be held without the parent. *Id.* Since he made three attempts to secure Parent's presence—(1) scheduling the meeting for December 2, 2021; (2) rescheduling the meeting to 10:00 a.m. at Parent's request; and (3) rescheduling the meeting after Parent cancelled the meeting on December 2, 2021—he said he satisfied his duty to attempt to secure Parent's presence and

could hold the meeting without her. *Id.* Former Case Manager further indicated that he called home on December 6, 2021 using Student’s phone, and spoke to “someone” at home “possibly an aunt or grandparent” who told him to have the meeting. *Id.* Director of Special Education conceded District trains staff to make three attempts to contact parents, but indicated staff are supposed to seek approval from Director of Special Education or a special education coordinator before holding a meeting without parents. *Interview with Director of Special Education.*

68. Following the December 6 email and Former Case Manager’s attempt to call Parent at home, Former Case Manager, School Psychologist, and General Education Teacher met without Parent to review and revise the 2020 IEP (“2021 IEP”) and 2020 BIP (“2021 BIP”). *Interviews with Former Case Manager, School Psychologist, and General Education Teacher.*

G. The 2021 IEP and 2021 BIP

69. The 2021 IEP documents Student’s strengths, preferences, and interests, including that he is polite, respectful, and kind, but that getting him to start work is a challenge. *Exhibit A*, p. 20. Student’s greatest strength is “when he can see an assignment and then complete his same assignment with better detail.” *Id.* Student is interested in computer programming and working on coding following high school. *Id.*

70. The 2021 IEP reviews Student’s present levels of performance, documenting that he receives support in a content support class, but that he can become easily distracted by his phone, music, and games, and will forget to complete work once off task. *Id.* at p. 21. The 2021 IEP further documents Student’s grades as of December 1, 2021 (failing English; D in geography and biology; C in math, Spanish, and strength conditioning; A in coding, passing in Content Support and “Tutorial”), attendance, teacher observations, and a summary of progress toward annual goals. *Id.*

71. The Student Needs and Impact of Disability section is almost identical to the 2020 IEP, indicating that Student often leaves the room to process his anger and frustrations (although that behavior was not observed at School during the 2021-2022 academic year). *See Id.* at pp. 8, 22. Information about Student’s learning disability in written expression was completely removed without explanation. *See Id.*

72. The Parent/Student Input section documents Parent’s requests to reschedule the IEP meeting, but otherwise does not contain parent/student input. *Id.* at p. 22.

73. The 2021 IEP contains a Post-Secondary Transition Plan, indicating Student will either attend a two-year college or receive on the job training to become a video game tester or computer programmer. *Id.* at p. 23. The 2021 IEP describes the courses Student will take to achieve this goal and provides that counselors and special education staff will work with Student to research careers of interest in tech. *Id.* at p. 24.

74. Goal No. 1 and Goal No. 3 from the 2021 IEP were continued forward from the 2020 IEP without revision because Student had not yet achieved them. *Id.* at pp. 22, 24-25. Student previously met Goal No. 2 during middle school, so that annual goal was removed. *See id.*

75. The 2021 IEP contains the same accommodations from the 2020 IEP. *See id.* at pp. 11, 25.

76. The Service Delivery was revised to provide for:

- a. 5 minutes/monthly – indirect consultation from a mental health provider;
- b. 140 minutes/monthly – direct specialized academic support from a special education teacher;
- c. 140 minutes/monthly – direct specialized academic instruction from a special education teacher; and
- d. 30 minutes/monthly – direct counseling services from a mental health provider.

Id. at p. 28

77. The IEP Team determined it was appropriate for Student to be placed in the general education class at least 80 percent of the time. *Id.* at p. 29.

78. The prior written notice (“PWN”) section of the 2021 IEP indicates that the IEP Team considered having Student take more classes that are directly supported by a special education provider but decided to keep Student in more general education classes “to help motivate [Student].” *Id.*

79. The 2021 BIP was updated to reflect Former Case Manager as the new case manager, but the 2021 BIP is otherwise substantively identical to the 2020 BIP, to include reference to Student’s middle school “safe spaces” in the crisis intervention plan. *See Exhibit B*, pp. 2-11. No new behavioral assessments were proposed or ordered, and no new behavioral supports or strategies were added to either the 2021 IEP or 2021 BIP. *See id.*; *see Exhibit A*, pp. 2-30.

1. *District’s Explanation of Revisions to the 2021 IEP and 2021 BIP*

80. Former Case Manager and General Education Teacher explained that academic services were decreased because of the availability of resources at School and not because of Student-specific data or need. *Interviews with Former Case Manager and General Education Teacher*. Neither Former Case Manager nor General Education Teacher remembered why Student’s mental health services were decreased. *Id.* General Education Teacher does not remember the 2021 BIP being discussed at the meeting and indicated she has never seen the document. *Interview with General Education Teacher*.

81. School Psychologist indicated that the mental health services were decreased because Student's behavior had "dramatically improved" and that he was unaware of any work refusal behaviors and behaviorally there were "no issues of significance" during the 2021-2022 academic year. *Interview with School Psychologist*. School Psychologist recalls Student was "doing well" and claimed he had weekly conversations about Student's behavior throughout the year with Former Case Manager and other staff at weekly special education meetings. *Id.*; see *Exhibit A*, p. 22.
82. On December 7, 2021, the day following the IEP meeting, Former Case Manager emailed a special education coordinator the following:

I have [Student] on my caseload. I am writing you to figure out what to do with him as a student of mine. He has refused to do alllllllll (sic) of his work this semester (literally nothing). He is going to fail almost all his classes or quite possibly all of them. He has lots of social emotional issues at home but we have not seen these issues at the school, but know and have heard they are happening at home. Please advise me as to what I should do with him and his lack of completing work. . . . He has excellent attendance and shows up to classes, not disruptive, not disrespectful, not defiant, but has significant work refusal (just does not do it – no arguing). A shut down, so to speak. Please let us know what you think or any advice you have to move forward in some way to better support him.

Exhibit L, p. 96.

83. Former Case Manager indicated there were discussions around strategies to support Student behaviorally, but no subsequent revisions were made to either the 2021 IEP or 2021 BIP. *Interview with Former Case Manager*.

2. "Finalization" of the 2021 IEP and 2021 BIP

84. Following the December 6, 2021 IEP meeting, Former Case Manager sent the 2021 IEP to a District special education compliance specialist for approval. See *Exhibit L*, p. 95. On December 7, 2021, the special education compliance specialist emailed Former Case Manager and indicated that areas of the 2021 IEP that she "checked for compliance" looked good, that the 2021 IEP was ready for review by a special education coordinator, and that once it was approved, she would send it home to Parent. *Id.*
85. On December 17, 2021, the special education coordinator emailed Former Case Manager and indicated that the service grid and service delivery of the 2021 IEP did not match. *Id.* at p. 98. The special education coordinator instructed Former Case Manager to edit the 2021 IEP for consistency and finalize the document for further review. *Id.*

86. Former Case Manager explained that this process was followed for IEPs for students on his caseload. *Interview with Former Case Manager*. If either the special education coordinator and/or special education compliance specialist found an issue with an IEP, they would “unlock” the IEP and send it back to him to make changes. *Id.* This process was the same regardless of whether the issue was minor (e.g., a clerical error) or a more major change. *Id.*
87. Director of Special Education explained that in District, special education teachers are required to submit IEPs for District approval before they are sent to parents. *Interview with Director of Special Education*. IEPs are reviewed by a special education compliance specialist for quality and compliance, and then reviewed by Director of Special Education or a special education coordinator. *Id.* Special education compliance specialists are not special education certified teachers, although they are trained by District to review IEPs for compliance with IDEA and CDE guidance. *Id.*
88. If a reviewer finds an issue with an IEP, the IEP is “denied” on Enrich, a message is sent to the special education case manager to change and finalize the IEP, and then the IEP is reviewed again. *Id.* Director of Special Education explained some “silly mistakes” could result in training for the case manager, and for a more major issue like an unmeasurable annual goal, the IEP would go back to the IEP Team for revision rather than the case manager (but he could not remember a time when an IEP needed to go back to the IEP Team for a new meeting). *Id.* Following approval, it is the special education compliance specialist’s responsibility to send out a copy of the IEP to the parents via physical mail. *Id.*
89. Director of Special Education conceded there are no written District policies and procedures to guide these practices, and staff learn of their responsibilities through on the job training. *Id.* District does not maintain its own special education manual or special education policies and procedures, relying entirely on CDE guidance documents and handbooks. *Id.*; *Response*, p. 3.
90. On January 7, 2022, following Former Case Manager’s revisions to the service grid, the 2021 IEP was approved, and the special education compliance specialist indicated the 2021 IEP went out in the mail to Parent that day. *Exhibit L*, p. 101.
91. Parent indicated she never received a copy of the 2021 IEP in the mail. *Interview with Parent*. On January 7, 2022, she contacted a school counselor with whom she had previously communicated and indicated that she was “ready to update the IEP.” *Exhibit L*, p. 104. The school counselor emailed Former Case Manager, who indicated that he tried calling Parent and left a message. *Id.* Parent indicated she never received the call, and that she did not receive a copy of the 2021 IEP until she completed a Colorado Open Records Act (“CORA”) request in August 2022, at which time she received a copy. *Interview with Parent*.

H. Implementation of the 2021 IEP and 2021 BIP (January through May 2022)

92. Parent's concern is that, following the December IEP meeting, Student was not provided with any special education or related services for the remainder of the 2021-2022 academic year. *Complaint*, p. 5. Parent raised no specific implementation concerns during this timeframe, and instead stated there was no IEP in place from January through May 2022 and thus Student received no special education services until the end of the year. *Id.*

1. IEP and BIP Accessibility to Student's Teachers

93. On January 11, 2022, Former Case Manager provided Student's teachers with an email containing a snapshot of the 2021 IEP. *Exhibit L*, p. 106. As before, Former Case Manager failed to include a copy of the 2021 BIP, and thus, the 2021 BIP was not shared with Student's teachers. *See id.* at pp. 106-111.

94. Both Former Case Manager and School Psychologist indicated that, following the December IEP meeting, there were ongoing weekly check ins and conversations about Student's progress and behavior with each other and with Student's teachers. *Interviews with Former Case Manager and School Psychologist*. However, General Education Teacher again indicated that the only ongoing communication about Student she was aware of consisted of emails about assignments that Student was working on during class, which were sent out about all IDEA-eligible students so case managers would know what to work on with students. *Interview with General Education Teacher*.

95. The SCO finds—based on the lack of corroboration between Former Case Manager, School Psychologist, and General Education Teacher's accounts about ongoing collaboration; School Psychologist and Former Case Manager's significantly different appraisals of Student's behavior; and Former Case Manager's failure to provide staff with the 2021 BIP—that District failed to ensure that teachers and service providers were aware of their responsibilities under the 2021 BIP, and by extension, the 2021 IEP.

2. Implementation of the 2021 IEP

96. The 2021 IEP provided for 140 minutes of direct specialized academic instruction and 140 minutes of direct academic support from a special education teacher. *Exhibit A*, p. 28. Former Case Manager was responsible for providing these services to Student. *Interview with Former Case Manager*.

97. Former Case Manager indicated that, following the development of the 2021 IEP, he continued to provide specialized academic support and specialized academic instruction as required by the 2021 IEP, and that Student continued to receive these services in the "content support" class at School. *Interview with Former Case Manager*.

98. Student’s transcript and attendance report confirm that Student continued his enrollment in the “content support” class with Former Case Manager, achieving a mark of “P” for passing, with a total of four absences. *Exhibit H*, pp. 9-10. However, as discussed above, Former Case Manager was not appropriately licensed as a special education teacher. *Interview with Director of Special Education*. Since Former Case Manager was not a licensed special education teacher, the SCO finds that District failed to provide Student with direct specialized academic support and instruction as required by the 2021 IEP.
99. The 2021 IEP also provided for 30 minutes of monthly direct counseling services, and 5 minutes of indirect consultation from a mental health provider. *Exhibit A*, p. 28. School Psychologist was responsible for providing these services. *Interview with School Psychologist*.
100. School Psychologist indicated that, following the development of the 2021 IEP, he continued to meet with Student for the remainder of the year, although Student continued to miss sessions. *Id.* Service logs from this timeframe support School Psychologist’s account, including references to consultations with Former Case Manager and several sessions marked “no show” indicating Student missed the session. *Exhibit G*, pp. 3-4.
101. The SCO finds—based on School Psychologist’s account and evidence to support his account in the service logs provided to the SCO—that Student received the counseling services and indirect consultation services he was entitled to under the 2021 IEP.

3. Student’s Progress Under the 2021 IEP

102. Following the development of the 2021 IEP and the reductions to mental health and academic services, Student’s academic progress declined. *See Exhibit H*, p. 9. Student failed five of his seven graded classes (a decline from the previous term). *Id.* Student continued to miss counseling sessions, and Student continued to exhibit behaviors which disrupted his learning, to include work refusal and refusal to put away his phone. *Interviews with General Education Teacher and Former Case Manager; Exhibit F*, pp. 4, 6.
103. Progress reports detailing progress toward annual goals were generated on March 11 and May 25, 2022. *Exhibit F*, pp. 4-6. Former Case Manager indicated that he provided the progress reports to the front office to be mailed to Parent, along with report cards, but Parent indicated she never received them. *Interviews with Former Case Manager and Parent*. The progress report detailed the following:
- a. Goal No. 1 – Social/Emotional Wellness:
 - i. March 11, 2022 – Progress Made – “Improved as evidence by increased participation and input from teachers.”

- ii. May 25, 2022 – Progress Made – “[Student] did not come to counseling sessions or was absent several sessions this quarter. Teachers do not report significant issues.”

b. Goal No. 2 – Writing:

- i. March 11, 2022 – Insufficient Progress Made – “[Student] is able to complete this goal, however getting [Student] to put his phone away and do his work during class is nearly impossible at this time. [Student] is a very smart and talented kid just needs to apply himself during class.”
- ii. May 25, 2022 – Student did not work on this goal.

Exhibit F, pp. 4-6.

104. On February 24 and March 7, 2022, one of Student’s teachers emailed Parent and Former Case Manager to report continued concerns about Student refusing to work and/or put away his phone. *Exhibit L*, p. 115. In February of 2022, Former Case Manager emailed Student’s former middle school case manager for suggestions on things that made him successful, and while the case manager replied with suggestions, no subsequent revisions were made to the 2021 IEP or 2021 BIP. *Id.* at p. 113. There were no additional IEP meetings for the duration of the 2021-2022 academic year to address lack of progress. *Interviews with General Education Teacher, Former Case Manager, and Parent; see Exhibit D*, pp. 2-7.
105. Following the end of classes, District discovered Former Case Manager was not appropriately licensed to teach special education, and he left his position with District. *Interviews with Former Case Manager and Director of Special Education.*

I. August 2022 to Present

106. Although Parent raised concerns about implementation of the 2021 IEP during the 2022-2023 academic year in her Complaint, during interviews she clarified that her concerns are that Student was not receiving services under an IEP tailored to his needs and that her concerns do not relate to implementation. *Interview with Parent.*
107. In August of 2022, Student began 10th grade at School under the 2021 IEP and 2021 BIP. *Interviews with Parent, Director of Special Education, and Case Manager; see Exhibit A*, p. 31. Case Manager, formally an assistant principal at School, took over as Student’s case manager for the 2022-2023 academic year (Case Manager became a part time special education instructor and case manager with a caseload of approximately 10 IDEA-eligible students). *Interview with Case Manager.*

108. On August 24, Case Manager sent teachers and service providers a snapshot of the 2021 IEP, along with a copy of the 2021 BIP. *Exhibit L*, pp. 119-129. In this email, Case Manager indicated that he would be following up regarding Student's academic and behavior progress on a weekly basis, and asked staff to contact him with questions. *Id.* at p. 119.
109. Case Manager indicated that efforts were made to arrange Student's schedule so he would be in classes where he would have opportunities for support, such with a special education teacher and/or paraprofessional support. *Interview with Case Manager*. Although the weekly check-ins do not always happen, there are "a number of touch points" throughout the week where Case Manager collaborates with staff, and staff continually give him feedback on how Student is doing. *Id.* The SCO finds there is documentation to support this position, to include emails to Parent and staff regarding Student's academic progress, behavior, and services. *Exhibit L*, pp. 131-133, 144-145, 147-152.
110. On September 9, 2022, upon Parent's request, District agreed to hold an IEP meeting. *Id.* at p. 139; *Interviews with Director of Special Education, Case Manager, and Parent*. Notice of meeting was provided in writing to Parent on September 7, 2022. *Exhibit D*, pp. 6-7.

J. The September 12, 2022 IEP Meeting

111. On September 12, 2022, a properly constituted IEP Team met to review the 2021 IEP and 2021 BIP and discuss Parent's concerns. *Exhibit L*, p. 139; *Interviews with Director of Special Education, Case Manager, and Parent*; *Exhibit D*, pp. 6-7.
112. At the meeting, Parent voiced several concerns about the 2021 IEP, including that she was not present at the December IEP meeting, that the 2021 IEP failed to address Student's needs, and that she was not receiving progress reports detailing Student's progress toward annual goals. *Exhibit E*, p. 2.
113. Case Manager shared progress data with Parent, to include a progress report generated on September 1, 2022. *Id.*; *Exhibit F*, pp. 4-7. The SCO finds the progress reporting for both of Student's annual goals did not measure progress on the annual goals themselves. *Exhibit F*, pp. 4-7. For example, for Goal No. 1, which targets perspective taking skills, the progress report merely indicates that Student "has been working hard in his academic classes and is pausing before speaking which indicates that he is gathering his thoughts. He is also working well in his content support classes"). *Exhibit F*, pp. 4-7.
114. The IEP Team then discussed the 2021 IEP and agreed to several revisions: (1) objectives were added to Student's annual Goal No. 1 (social/emotional); (2) mental health services with School Psychologist were increased to 60 minutes each week; (3) academic support was increased to 70 minutes each day; and (4) a scribe was added as an accommodation. *Exhibit C*, p. 2.

115. Although Student's time with School Psychologist was increased following the September IEP meeting, no new behavioral assessments were ordered, and no changes were made to the 2021 BIP. *See Exhibit E*, pp. 1-3; *Interviews with Director of Special Education, Case Manager, School Psychologist, and Parent*. Student continues to struggle with work completion and refusal to put away his phone, and Case Manager reported these behaviors have increased since the September IEP meeting. *Interview with Case Manager*.
116. The SCO finds, in consultation with CDE Content Specialist 1, that District lacked sufficient information about Student's behavioral needs to determine whether increased counseling services would be helpful to address Student's behavioral struggles. *Consultation with CDE Content Specialist 1*. The 2021 BIP described behaviors that were no longer present at School, and widespread teacher observations of new disruptive behaviors, like work refusal and refusal to put away the phone, should have prompted the IEP Team to determine the root of the behavior to better understand Student's needs. *Id.*
117. On September 19 and 27, 2022, Parent requested an additional IEP meeting and requested (among other things) that a Board Certified Behavior Analyst ("BCBA") attend and that the IEP Team discuss the possibility of an FBA. *Exhibit C*, p. 6. Parent also requested an independent educational evaluation ("IEE") at public expense. *See Id.*
118. District agreed to fund the IEE, but on September 30, 2022, District issued Parent PWN indicating her request for an IEP meeting and FBA were denied:

The District rejects this request at this time because [Student's] IEP team met on September 12, 2022 to review his IEP. In addition, these items are more appropriately considered after additional assessment data can be gathered. The District has already agreed to fund an independent educational evaluation (IEE) at public expense, and suspects that evaluation be completed by December 2022. . . . When those assessments are completed the District will reconvene [Student's] IEP team [to] consider each request[] with up to date data.

Id.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District failed to properly implement Student's IEP from September 2021 through May 2022, in violation of 34 C.F.R. § 300.323. The failure to implement was material and resulted in a denial of FAPE.

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17; ECEA Rule 2.19. The IEP is “the centerpiece of the statute’s education delivery system for disabled children . . . [and] the means by which special education and related services are ‘tailored to the unique needs’ of a particular child.” *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. Of Ed. V. Rowley*, 458 U.S. 176, 181 (1982)). A student’s IEP must be implemented in its entirety. 34 C.F.R. § 300.323(c)(2).

A school district must ensure that “as soon as possible following the development of the IEP, special education and related services are made available to a child in accordance with the child’s IEP.” *Id.* § 300.323(c)(2). To satisfy this obligation, a school district must ensure that each teacher and related services provider is informed of “his or her specific responsibilities related to implementing the child’s IEP,” as well as the specific “accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.” *Id.* § 300.323(d).

A. Implementation of the 2020 IEP and 2020 BIP (August through December 2021)

Parent's Concerns

The 2020 IEP and 2020 BIP were in effect from August through December 2021. (FF #s 2, 67). Parent’s concerns are (1) that teachers and service providers were not informed of their responsibilities under the 2020 IEP and 2020 BIP; (2) that Student did not receive the special education and related services he was entitled to under the 2020 IEP; (3) that Former Case Manager was not appropriately licensed as a special education teacher; (4) that Student was not given accommodations at the PSAT in September of 2021; (5) and that Student was not given writing accommodations in class as required by the 2020 IEP. (FF # 23). The SCO will now address each of these concerns.

Accessibility to Student’s Teachers

First, the SCO must determine whether District satisfied its obligation under 34 C.F.R. § 300.323(d). Here, Former Case Manager oversaw the 2020 IEP and 2020 BIP. (FF # 25). Thus, he was responsible for ensuring staff were aware of their responsibilities under each. *Id.*

Former Case Manager provided teachers with a snapshot of the 2020 IEP in August of 2021; however, Former Case Manager failed to provide teachers with a copy of the 2020 BIP – a significant component of the 2020 IEP. (FF # 27). The snapshot of the 2020 IEP also lacked sufficient information about the impact of Student’s disability on writing for teachers to understand the purpose of Student’s accommodations and the writing goal, as well as how Student’s disability impacted him in writing. (FF # 53). Following this, Former Case Manager failed to engage in ongoing collaboration with Student’s teachers about the 2020 IEP and Student’s progress until shortly before the December 2021 IEP review. (FF #s 29, 59).

Although School Psychologist and Former Case Manager both indicated that they met regularly with each other to discuss Student’s needs, each staff member gave significantly different accounts of Student’s behavior and progress to the SCO which contradict the position that such collaboration was meaningful. See (FFs # 80-81). General Education Teacher also denied that teachers were included in any ongoing collaboration regarding Student. (FF # 29).

For these reasons, the SCO finds and concludes that District failed to ensure teachers and service providers working with Student were informed of their responsibilities under the 2020 IEP, in violation of 34 C.F.R. § 300.323(d).

Indirect Case Management, Academic Support, and Academic Instruction

The 2020 IEP provided for 120 minutes of direct specialized instruction and 800 minutes per month of direct specialized academic support. (FF #s 10, 32). The 2020 IEP further provided for 30 minutes of indirect case management. *Id.* Former Case Manager was responsible for providing these services. (FF #s 32, 36).

Former Case Manager indicated that Student was provided with direct specialized academic instruction and support during regularly scheduled “content support” classes. (FF # 33). Former Case Manager gave detailed descriptions of “content support” and Student’s participation in the “content support” class is documented in his transcript and attendance record. *Id.*

Former Case Manager further indicated that the 30 minutes of indirect case management consisted of conversations with School Psychologist and other teachers and service providers regarding Student. (FF # 37). School Psychologist confirms these conversations occurred, and there is evidence in School Psychologist’s service logs to show collaboration between Former Case Manager and School Psychologist. *Id.*

However, the 2020 IEP also provided that the indirect case management, direct specialized academic instruction, and direct specialist academic support were all to be provided by a special education teacher. (FF # 10). District concedes that Former Case Manager, the staff member who provided these services, was not appropriately licensed to teach special education during the 2021-2022 academic year. (FF # 47).

IDEA requires that State Educational Agencies—here CDE—“establish and maintain qualifications to ensure that personnel . . . are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.” 34 C.F.R. § 300.156(a). In a recent memo to State Directors of Special Education, OSEP clarified states’ obligations regarding IDEA Part B requirements related to personnel qualifications and alternate certifications in response to staff shortages caused by the COVID-19 pandemic. See *Memorandum: Personnel Qualifications under Part B of the*

Individuals with Disabilities Education Act (IDEA) (OSEP 10/4/22), available at: <https://sites.ed.gov/idea/files/OSEP-Memo-22-01-Personnel-Qualifications-under-IDEA-10-04-2022.pdf>.

In Colorado, districts are responsible for ensuring sufficient personnel are appropriately licensed and certified “to provide appropriate special education instructional and related services to implement all IEPs for children with disabilities.” ECEA Rule 3.03. Colorado law mandates that “all special education teachers shall hold Colorado teacher’s certificates or licenses with appropriate endorsements in special education.” ECEA Rule 3.04(1)(a)(i).

Here, the SCO finds that District’s failure to ensure Former Case Manager held appropriate special education teaching credentials violated ECEA Rules 3.03 and 3.04(1)(a)(i). As a result of these violations, although Student received the full amount of indirect case management, academic support, and academic support services he was entitled to, those services were not provided by a special education teacher as required by the 2020 IEP. (FF # 47). For these reasons, the SCO finds and concludes District failed to implement the 2020 IEP with respect to indirect case management, academic support, and academic support services, in violation of 34 C.F.R. § 300.323.

Counseling and Behavioral Intervention Services

The 2020 IEP provided for 120 minutes per month of counseling services and 80 minutes per month of behavioral intervention services. (FF #s 10, 39). School Psychologist was responsible for providing these services. (FF # 39).

School Psychologist’s service logs document counseling sessions during which School Psychologist met with Student each month. (FF # 41). While the service minutes documented in those service logs fall short of the 120 minutes per month required by the 2020 IEP, School Psychologist explained that the minutes were less than the full amount required by the 2020 IEP because Student often missed sessions. *Id.* Parent did not raise specific concerns with Student’s counseling services, and School Psychologist provided detailed descriptions of counseling sessions with Student, and an explanation for the missed services. (FF # 42).

For these reasons, the SCO finds and concludes that District properly implemented the 2020 IEP with respect to counseling services, consistent with 34 C.F.R. § 300.323.

By contrast, School Psychologist was unable to provide any clear examples of behavioral intervention services or an explanation of how those services differed from the counseling services provided to Student, and his description of those services was extremely vague in comparison to his description of the counseling services. (FF # 43). School Psychologist’s understanding of Student’s behavior was also significantly different than that of Former Case Manager and Student’s teachers, suggesting School Psychologist lacked information about the status of Student’s behavioral needs. (FF # 43). Moreover, there were no service logs to show Student received 80 minutes per month of behavioral intervention services. *Id.* While service

logs are not required under IDEA, the absence of any documentation to show the behavioral intervention happened weighs against a finding of implementation.

For these reasons, the SCO finds and concludes that District failed to properly implement the 2020 IEP with respect to behavioral intervention services, in violation of 34 C.F.R. § 300.323.

Accommodations and Modifications – PSAT

The 2020 IEP provided for extended time and a small group setting for the PSAT. (FF #s 11, 50). Student took the PSAT on September 29, 2021, and again on April 13, 2022. (FF # 51). District did not obtain approval for Student’s accommodations on the PSAT until January 15, 2022. *Id.*

There is no evidence to show that Student received accommodations on the September 29, 2021 PSAT, and for this reason the SCO finds and concludes that District failed to implement the 2020 IEP with respect to Student’s PSAT accommodations, in violation of 34 C.F.R. § 300.323.

Classroom Accommodations

The 2020 IEP provided for multiple classroom accommodations, to include several accommodations specific to writing. (FF # 8). Student’s teachers were provided with a copy of Student’s accommodations in August of 2021, along with other information about the 2020 IEP. (FF #s 26, 53). General Education Teacher, one of Student’s teachers throughout the 2021-2022 academic year, provided numerous highly detailed examples of accommodations provided to Student, to include those specific to writing. (FF #s 54-55). This account is supported by references to Student’s accommodations which appear in the written Record. (FF # 55).

For these reasons, the SCO finds and concludes that District properly implemented the 2020 IEP with respect to Student’s classroom accommodations, consistent with 34 C.F.R. § 300.323.

B. Implementation of the 2021 IEP (January through May 2022)

Parent’s Concerns

The 2021 IEP and 2021 BIP were in effect starting in January of 2022. (FF # 89). Parent’s concern is that Student was not provided with any special education and related services under the 2021 IEP for the remainder of the 2021-2022 academic year. (FF # 91).

Accessibility to Student’s Teachers

First, the SCO must determine whether District satisfied its obligation under 34 C.F.R. § 300.323(d). Here, Former Case Manager oversaw the 2021 IEP and 2021 BIP. *See* (FF # 92). He was responsible for ensuring staff were aware of their responsibilities under the 2021 IEP. *See id.*

On January 11, 2022, Former Case Manager provided Student's teachers with a snapshot of the 2021 IEP; however, he again failed to provide a copy of the 2021 BIP, a significant component of the 2021 IEP. *Id.* Although Former Case Manager and School Psychologist indicated that they continued to meet regularly with teachers and each other regarding Student's needs, General Education Teacher indicated that she was not part of any ongoing collaboration outside of generalized emails about what students were working on during class. (FF # 93).

For these reasons, the SCO finds and concludes that District failed to ensure teachers and service providers were informed of their responsibilities under the 2021 IEP, in violation of 34 C.F.R. § 300.323(d).

Academic Support and Academic Instruction

The 2021 IEP provided for 140 minutes of direct academic instruction and 140 minutes of direct academic support, to be provided by a special education teacher. (FF # 95). Former Case Manager provided these services in the "content support" class; however, Former Case Manager was not an appropriately licensed special education teacher. (FF #s 95, 97).

As discussed above, District's failure to ensure that Former Case Manager was appropriately licensed as a special education teacher resulted in a violation of ECEA Rules 3.03 and 3.04(1)(a)(i). As a result of these violations, Student did not receive academic instruction or academic support from a licensed special education teacher as was required by the 2021 IEP. (FF # 97).

The SCO accordingly finds and concludes that District failed to implement the 2021 IEP with respect to the academic support and academic instruction services, by failing to ensure they were provided by a special education teacher as required by the 2021 IEP, in violation of 34 C.F.R. § 300.323.

Counseling Services and Indirect Consultation

The 2021 IEP provided for 30 minutes per month of direct counseling services, and 5 minutes per month of indirect consultation from a mental health provider. (FF # 98). School Psychologist was responsible for providing these services. *Id.*

School Psychologist indicated that he continued to meet with Student for the remainder of the 2021-2022 academic year following the development of the 2021 IEP (although Student continued to miss sessions), and he regularly met with Former Case Manager for consultations. (FF # 99). These contacts are documented in School Psychologist's service logs. *Id.*

The SCO accordingly finds and concludes that District properly implemented the 2021 IEP with respect to counseling services and indirect consultation, consistent with 34 C.F.R. § 300.323.

C. Materiality of Failure to Implement

Where the definition of a FAPE specifically references delivery of special education and related services consistent with an IEP, the failure to implement an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.19. However, not every deviation from an IEP's requirements results in a denial of a FAPE. *See, e.g., L.C. and K.C. v. Utah State Bd. of Educ.*, 125 Fed. Appx. 252, 260 (10th Cir. 2005) (holding that minor deviations from the IEP's requirements which did not impact the student's ability to benefit from the special education program did not amount to a "clear failure" of the IEP); *T.M. v. District of Columbia*, 64 IDELR 197 (D.D.C. 2014) (finding "short gaps" in a child's services did not amount to a material failure to provide related services). Thus, a "finding that a school district has failed to implement a requirement of a child's IEP does not end the inquiry." *In re: Student with a Disability*, 118 LRP 28092 (SEA CO 5/4/18). Instead, "the SCO must also determine whether the failure was material." *Id.* Courts will consider a case's individual circumstances to determine if it will "constitute a material failure of implementing the IEP." *A.P. v. Woodstock Bd. of Educ.*, 370 Fed. Appx. 202, 205 (2d Cir. 2010).

Here, District failed to adequately inform Student's teachers of their responsibilities under the 2020 IEP and 2020 BIP, as well as the 2021 IEP and 2021 BIP. District failed to ensure that Student received case management, academic instruction, and academic support from a licensed special education teacher throughout the entire 2021-2022 academic year, and District failed to provide behavioral intervention services as required by the 2020 IEP from August through December of 2021. (FF #s 44, 48). District also failed to provide Student with accommodations on the September 2021 PSAT. (FF # 51).

Taken as a whole, these failures constitute more than "short gaps" in services. For the entire 2021-2022 academic year, Student received no specialized instruction from an appropriately licensed special education teacher. Although Student received some mental health services from School Psychologist, and accommodations in class, he did not receive direct behavioral intervention services, despite reports from all his teachers that his behavior was impeding his learning. This resulted in declining grade performance, and lack of progress toward annual goals, which continued throughout the entire school year. *See* (FF #s 60, 81, 101-102).

For these reasons, and in consultation with CDE Content Specialists 1 and 2, the SCO finds and concludes that the failure to implement the 2020 IEP and 2021 IEP was material and resulted in a denial of FAPE.

Conclusion to Allegations No. 2 and No. 3: District convened an IEP Team meeting on December 6, 2021 without all required IEP Team members (specifically Parent), in violation of 34 C.F.R. § 300.321. District thus deprived Parent of a meaningful opportunity to participate in the development of the 2021 IEP and 2021 BIP, in violation of 34 C.F.R. §§ 300.321(a)(1), 300.324(a)(1)(ii), and 300.501(b)-(c). These violations resulted in a denial of FAPE.

Parent's concern is that District held an IEP meeting on December 6, 2021 without her and thereby denied a meaningful opportunity to participate in the development of the 2021 IEP and 2021 BIP.

The IDEA's procedural requirements for developing a child's IEP are designed to provide a collaborative process that "places special emphasis on parental involvement." *Systema v. Academy School District No. 20*, 538 F.3d 1306, 1312 (10th Cir. 2008). To that end, the IDEA requires that parental participation be meaningful, to include carefully considering a parent's concerns for enhancing the education of his or her child in the development of the child's IEP. 34 C.F.R. §§ 300.321(a)(1), 300.322, and 300.324(a)(1)(ii).

"Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate – including (1) notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) scheduling the meeting at a mutually agreed on time and place." 34 C.F.R. § 300.322(a). "If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls." 34 C.F.R. §§ 300.322(c), 300.328.

A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as (1) detailed records of telephone calls made or attempted and the results of those calls; (2) copies of correspondence sent to parents and any responses received; and (3) detailed records of visits made to the parent's home or place of employment and the results of those visits.

34 C.F.R. § 300.322(d).

Here, an IEP review meeting was scheduled for December 2, 2021. (FF # 61). Notice of Meeting was sent to Parent on November 29, 2021, and Former Case Manager confirmed the date and time via email. *Id.* Parent responded and requested that the meeting be moved from 7:30 to 10:00 a.m. *Id.* On December 2, 2021, the day of the meeting, Parent emailed Former Case Manager and again asked to reschedule the meeting. (FF # 62).

In response, District made little attempt to secure her presence at a meeting or arrange alternative means of participation. *See* (FF #s 63-66). Parent received an email indicating the decision had been made to hold the meeting without her, a response sent the following Monday on December 6, 2021, the day of the meeting. (FF # 64). District did not ask Parent whether she could attend by alternate means, such as by phone or video conference, and District did not ask Parent when she would be discharged from the hospital so another meeting could be scheduled at a mutually agreed upon time and place. *See* (FF #s 63-66).

Moreover, due to drafting errors in the 2021 IEP which were identified by the special education coordinator on December 17, 2021, the 2021 IEP was not “finalized” until January 7, 2022, a full month after the December 6, 2021 IEP meeting – through an undocumented and concerning practice that the SCO will address below. (FF # 89). Under the circumstances, there was ample time for District to reconvene the IEP Team to obtain Parent’s input about Student’s services.

The SCO accordingly finds and concludes that District held the December 6, 2021 IEP meeting without all required IEP Team members, specifically Parent, and in doing so denied Parent the opportunity to participate in the development of Student’s IEP, a procedural violation of 34 C.F.R. §§ 300.321, 300.324(a)(1)(ii), and 300.501(b)-(c).

Procedural violations of 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. 34 C.F.R. § 300.513(a)(2); *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).

Here, by failing to take steps to ensure Parent was present at the December 6 IEP meeting, District effectively prevented Parent from having the opportunity to participate in the development of the 2021 IEP and 2021 BIP. (FF # 67). Indeed, due in part to Parent’s lack of involvement, the IEP Team developed an IEP that, as discussed below, failed to address Student’s individualized needs. Although Parent indicated she tried unsuccessfully to call Former Case Manager following the meeting, and the Record demonstrates that Parent contacted District in January of 2022 and asked to update the IEP, District did not give Parent the opportunity to discuss the 2021 IEP until August of 2022, eight months after the development of the 2021 IEP. (FF # 90). District also failed to provide Parent with a copy of the 2021 IEP following the December 6, 2021 IEP meeting. *Id.* Former Case Manager indicated that he made attempts to call Parent, but those efforts are not documented, and fall short of satisfying District’s obligation to take steps to secure Parent’s presence. *See id.*

For these reasons, the SCO finds and concludes that District’s procedural violation significantly impeded Parent’s ability to participate in the decision-making process for Student, resulting in a denial of FAPE.

Conclusion to Allegation No. 4: District failed to provide Parent with a copy of the 2021 IEP, in violation of 34 C.F.R. § 300.322(f).

Parent’s concern is that she was not provided with a copy of the 2021 IEP and 2021 BIP following the December 6, 2021 IEP meeting.

The IDEA requires school districts to provide parents a copy of their child’s IEP at no cost. 34 C.F.R. § 300.322(f). Providing a copy of the IEP is essential to a parent’s ability to participate in the development and enforcement of their child’s IEP. *M.C. v. Antelope Valley Union High Sch.*

Dist., 858 F.3d 1189, 1198 (Ninth Cir. 2017), *cert. denied*, 138 S. Ct. 556 (2017). The IDEA does not, however, specify that the IEP be provided within a certain timeframe. *See id.*

Here, the evidence shows that a District special education compliance specialist mailed Parent a copy of the 2021 IEP on January 7, 2022, but Parent did not receive it. (FF # 90). Parent was not included in the December 6, 2021 IEP meeting, and Former Case Manager's only communication to her was the December 6, 2021 email, which he sent *before* the IEP meeting. (FF #s 64, 67). Under the circumstances, there was no way for Parent to know the status of the 2021 IEP, or that a copy of the 2021 IEP was sent in the mail. Indeed, Parent contacted a school counselor on January 7, 2022, and indicated she was ready to "update" the IEP. (FF # 90). This demonstrates Parent was unaware of the status of the 2021 IEP, and thus, unaware that she should follow up with District to inform them she did not receive a copy in the mail. District did provide Parent with a copy of the 2021 IEP in response to her CORA request in August of 2022, but that was eight months after the development of the 2021 IEP. *Id.*

While IDEA does not specify the timeframe for a school district to provide parents with a copy of an IEP, previous CDE decisions have found that a delay of two months was too long. *See St. Vrain Valley Sch. Dist. RE-1J*, 122 LRP 13570 (SEA CO 02/15/22). The SCO accordingly finds that District failed to timely provide Parent with a copy of the 2021 IEP, by waiting eight months after the development of the 2021 IEP, a procedural violation of 34 C.F.R. § 300.322(f).

Procedural violations of 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. 34 C.F.R. § 300.513(a)(2); *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).

Here, District's failure to timely provide Parent with a copy of the 2021 IEP, taken in combination with the other violations noted in this Decision, significantly impeded Parent's ability to participate in the decision-making process for Student. Parent was not included in the December 6, 2021 IEP meeting, and thus, was unaware of the decisions made by the District members of the IEP Team in her absence, as well as the status of the 2021 IEP. (FF #s 67, 90). Parent was not informed of the decisions made at the December 6, 2021 IEP meeting until August of 2022, and thus, was not aware of Student's programming until a full semester had passed.

For these reasons, the SCO finds and concludes that District's procedural violation significantly impeded Parent's ability to participate in the decision-making process for Student, resulting in a denial of FAPE.

Conclusion to Allegation No. 5: District failed to develop, review, and revise an IEP during the 2021-2022 academic year that was tailored to meet Student's individualized needs, in violation of 34 C.F.R. §§ 300.320 and 300.324. This violation resulted in a denial of FAPE.

Parent's concern is that District failed to develop, review, and revise an IEP that was tailored to meet Student's individualized needs.

IDEA requires a school 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 Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999 (2017). An analysis of the adequacy of an IEP begins with the two-prong standard established by the United States Supreme Court in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The first prong determines whether the IEP development process complied with the IDEA's procedures; the second prong considers whether the IEP was reasonably calculated to enable the child to receive an educational benefit. *Id.* at 207. If the question under each prong can be answered affirmatively, then the IEP is appropriate under the law. *Id.* Taken together, these two prongs assess whether an IEP is procedurally and substantively sound.

IEP Development Process

In this case, the 2020 IEP was developed on December 20, 2020, so District was required to review and revise the 2020 IEP on or before December 20, 2021. (FF # 2). District members of the IEP Team met to review and revise the 2020 IEP on December 6, 2021, within one year, as required by IDEA. (FF # 67). However, the IEP Team met without all required members – notably Parent. *Id.* As a result, the SCO finds and concludes that the development of the 2021 IEP did not comply with IDEA's procedures and fails the first prong of the assessment. *Rowley*, 458 U.S. at 206. Nevertheless, the SCO turns next to the second question of whether the 2021 IEP was substantively appropriate. *Rowley*, 458 U.S. at 207.

Substantive Adequacy of IEP

Again, 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. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999 (2017). 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.* 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).

IDEA's procedures also contemplate that a student's IEP may need to be reviewed and revised more frequently to address changed needs or a lack of expected progress. *See id.* §§ 300.324(a)(4)-(6), (b); *Endrew F.*, 137 S. Ct. at 994. The obligation to revise a student's IEP to address changing behavior needs exists whether or not the district is considering disciplinary action to address the behavior. *See e.g., Morgan v. Chris L.*, 25 IDELR 227 (6th Cir. 1997, unpublished), cert. denied, 112 LRP 24142, 520 U.S. 1271 (1997) (holding that the district was obligated to convene an IEP team meeting to address behaviors even if school officials were not considering any disciplinary actions that would trigger the procedural safeguards in

IDEA). Indeed, for a student whose behavior impedes their learning, the IEP must, among other things, “consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.” 34 C.F.R. § 300.324(a)(2).

Here, leading up to the December 6, 2021 IEP meeting when the 2021 IEP was developed, Student was struggling significantly, both in terms of academic progress and behavior. (FF # 59). In November of 2021, when Former Case Manager solicited input from Student’s teachers, all reported concerns with Student’s behavior (being withdrawn, refusing to turn in work, refusal to put away phone) and indicated those behaviors were negatively impacting Student’s academic progress. *Id.* Student was also regularly missing sessions with School Psychologist without explanation. (FF # 41). Although Student had the 2020 BIP to manage behavior, none of his teachers were aware of the 2020 BIP and it was developed based on behaviors which were no longer being observed at School. (FF #s 27, 57).

There is strong evidence that Student’s behaviors were impeding his ability to access education, and the behavioral supports in place were no longer relevant to his current behavior. (FF #s 57, 59). IDEA required the IEP Team to consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, and to revise the program and services, as necessary, to address Student’s lack of expected progress and changed needs. 34 C.F.R. § 300.324(a)(2).

Instead, the only substantive revisions that were made to the 2020 IEP and 2020 BIP was removal of service minutes. *See* (FF #s 68-78). No changes were made to his goals or accommodations, other than to remove a goal that had already been accomplished in middle school. *Id.* No changes were made to his behavioral supports in the 2020 BIP, and no new assessments were ordered to better understand Student’s needs. *Id.*

Moreover, Student’s unmet annual goals were kept the same due to lack of progress without the development of any new supports or services to enable Student to achieve them, and the reduction to Student’s services was made based on administrative needs and the availability of resources – not on Student-specific data. (FF #s 74, 80). This implicates systemic concerns.

For these reasons, and in consultation with CDE Content Specialists 1 and 2, the SCO finds and concludes that the 2022 IEP was not reasonably calculated to enable Student to receive an educational benefit and that it violated the IDEA’s substantive requirements related to the development of an IEP at 34 C.F.R. § 300.324(a)(2), resulting in a denial of FAPE.

Conclusion to Allegation No. 6: District failed to provide Parent with periodic reports on Student’s progress between September 21, 2021 and present, in violation of 34 C.F.R. § 300.320(a)(3)(iii). This violation resulted in a denial of FAPE.

A parent’s right to participate in the development of their child’s educational program requires that they be regularly informed of progress toward IEP goals. *See M.C. v. Antelope Valley Union*

High Sch. Dist., 858 F.3d 1189, 1198 (Ninth Cir. 2017), *cert. denied*, 138 S. Ct. 556 (2017) (concluding that “[I]n enacting the IDEA, Congress was as concerned with parental participation in the *enforcement* of the IEP as it was in its *formation*.”) For that reason, school districts must periodically report a student’s progress toward meeting annual goals to his parents, in accordance with the schedule described in the IEP. 34 C.F.R. § 300.320(a)(3). In light of *Endrew F.*, OSEP provided additional guidance concerning the importance of sharing progress monitoring data with Parents:

Public agencies may find it useful to examine current practices for engaging and communicating with parents throughout the school year as IEP goals are evaluated and the IEP Team determines whether the child is making progress toward IEP goals. IEP Teams should use the periodic progress reporting required at 34 CFR §300.320(a)(3)(ii) to inform parents of their child’s progress. Parents and other IEP Team members should collaborate and partner to track progress appropriate to the child’s circumstances.

Questions and Answers (Q&A) on *U. S. Supreme Court Case Decision Endrew F. v. Douglas County School District Re-1*, 71 IDELR 68 (OSEP 2017).

In this case, Parent’s concern is that District failed to provide periodic progress reports during the 2021-2022 academic year. Former Case Manager indicated that he prepared progress reports on October 12, 2021, and March 11 and May 25, 2022, which were provided to the front office to be physically mailed to Parent. (FF #s 60, 102). However, like the 2021 IEP, Parent indicated that she never received them. *Id.*

Either way, the progress reports generated on the dates above had minimal, if any, information about Student’s progress toward annual goals. *See id.* For instance, Student’s first annual goal targets perspective taking skills, which was identified as an area of weakness for Student in the 2020 BIP. (FF #s 7, 15). The goal indicates that Student’s progress will be monitored by determining his success in demonstrating perspective taking skills in 4/5 trials. (FF # 7). Progress reports were generated for this annual goal but do not provide information about Student’s progress toward that benchmark. *See* (FF #s 60, 102). Even the progress report that was provided to Parent at the September 12 meeting fails to relate back to the annual goal, merely indicating that Student is “working hard” in classes and pausing before speaking. (FF # 112).

As another example, all that can be derived from the progress report for the annual writing goal is that Student never worked on the goal. (FF #s 7, 60, 102). Although Former Case Manager indicated that Student’s is “able” to complete the goal, there is no indication of what led him to that conclusion, and the report essentially blames Student for not applying himself during class. (FF # 102).

The purpose of progress reporting is to provide parents an opportunity to participate in the educational decision-making process for their child. Under the circumstances, even had Parent

received the progress reports, they would have done little to help her understand Student's progress or participate in the decision-making process. For these reasons, the SCO finds and concludes that District failed to provide periodic reports on Student's progress between September 21, 2021 and present, resulting in a procedural violation of 34 C.F.R. § 300.320(a)(3)(iii).

Procedural violations of 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. 34 C.F.R. § 300.513(a)(2); *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306 (10th Cir. 2008).

Here, District's failure to provide Parent with progress reports further impeded Parent's ability to participate in the decision-making process. Taken collectively with the other violations noted in this Decision, District severely limited Parent's ability to enforce the IEP, to timely be apprised of Student's progress, and to participate in review and revision of the IEP. Moreover, there was minimal communication between Former Case Manager and Parent, meaning that Parent did not have other means of staying informed of Student's progress. (FF # 65). As a result, Parent was unaware of the extent of Student's academic and behavioral decline until the beginning of the 2022-2023 academic year, compounding the educational harm to Student.

For these reasons, the SCO finds and concludes that District's procedural violation significantly impeded Parent's ability to participate in the educational decision-making process for Student, resulting in a denial of FAPE.

A. Compensatory Education

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

Here, in consultation with CDE Content Specialists 1 and 2, the SCO finds and concludes that District's multiple IDEA violations resulted in Student missing the equivalent of one academic year of special education and related services. Nevertheless, in consideration of Student's age and individualized needs, the SCO finds and concludes that a minute for minute calculation for all services missed would be burdensome on Student. Instead, the SCO awards the following: (1) 135 minutes of indirect case management from a special education teacher; (2) 1200 minutes of counseling services and/or behavioral intervention services (after Student is reevaluated, the IEP Team can apportion the minutes between behavioral intervention services

and counseling services depending on Student's needs as shown by the FBA); (3) 540 minutes of direct specialized writing instruction from a special education teacher; and (4) 3,600 minutes of direct specialized academic support from a special education teacher.

Systemic IDEA Violations: This investigation demonstrates violations that are systemic and will likely impact the future provision of services for all children with disabilities in District if not corrected. 34 C.F.R. § 300.151(b)(2).

Pursuant to its general supervisory authority, CDE must also consider and ensure the appropriate future provision of services for all IDEA-eligible students in the district. 34 C.F.R. § 300.151(b)(2). Indeed, the U.S. Department of Education has emphasized that the State Complaint Procedures are "critical" to the SEA's "exercise of its general supervision responsibilities" and serve as a "powerful tool to identify and correct noncompliance with Part B." *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

In this case, the SCO finds and concludes, in consultation with CDE Content Specialists 1 and 2, that District's IDEA violations are systemic in nature and likely to impact other students if not addressed.

First, Former Case Manager indicated that he had between 19-21 IDEA-eligible Students on his caseload. (FF # 46). Since Former Case Manager did not hold a valid special education teaching license, these students on his caseload may have missed services they were entitled to under their IEPs if Former Case Manager was providing the services. (FF # 47). Former Case Manager and General Education Teacher also both indicated that the development of Student's academic services under the 2021 IEP was based on the availability of School resources, and not Student-specific data. (FF # 80). There is no indication that District has taken or is taking any steps to determine if other children's educational opportunities were impacted by Former Case Manager's lack of credentials and erroneous understanding of IEP development.

Second, District's lack of written special education policies and procedures raises concerns that District is not ensuring staff compliance with IDEA. (FF # 88). For example, District has an undocumented practice of sending IEPs to a special education compliance specialist for review. (FF #s 86-87). According to Former Case Manager, even if a major issue is identified in an IEP, case managers are expected to make changes to the IEP on their own. (FF # 85). This suggests that IEPs may be revised outside of the IEP process and without parent participation since there is no written guidance to dictate what types of issues can be "fixed" by a case manager instead of the IEP Team. (FF # 88).

As another example, Former Case Manager indicated that he was trained by District that a staff person need only make three attempts to contact a parent before holding an IEP meeting without the parent. (FF # 66). Director of Special Education indicated that District follows CDE guidance in lieu of written policies and procedures; however, there is no such rule contained in

IDEA or CDE guidance. (FF # 88). District's lack of written policies and procedures makes it difficult to determine whether any other erroneous practices exist and raise concerns about the information that is being provided to staff.

For these reasons, the SCO finds and concludes that the violations noted in this Decision were systemic. The SCO will accordingly fashion an appropriate remedy below.

REMEDIES

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

1. Failing to properly implement Student's IEP, in violation of 34 C.F.R. § 300.323.
2. Convening an IEP Team meeting without all required IEP team members, in violation of 34 C.F.R. § 300.321.
3. Depriving Parent of meaningful participation, in violation of 34 C.F.R. §§ 300.321(a)(1), 300.324(a)(1)(ii), and 300.501(b)-(c).
4. Failing to develop, review, and revise an IEP that was tailored to meet Student's individualized needs, in violation of 34 C.F.R. §§ 300.320 and 300.324.
5. Failing to provide Parent with periodic reports on Student's progress, in violation of 34 C.F.R. § 300.320(a)(3)(iii).
6. Failing to ensure Former Case Manager held appropriate special education teaching credentials, in violation of ECEA Rules 3.03 and 3.04(1)(a)(i).

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

1. **Corrective Action Plan**
 - a. By **Monday, January 2, 2023**, District shall submit to CDE a corrective action plan ("CAP") that adequately addresses the violations noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom District is responsible. The CAP must, at a minimum, provide for the following:
 - i. By **Monday, January 30, 2023**, District must identify and provide CDE the names of all similarly situated District students who (a) are IDEA-eligible, (b) were on Former Case Manager's caseload. By **Monday, March 8, 2023**, District shall verify to CDE that the issue involving the areas of noncompliance identified in this Decision have been corrected, to include

an individualized determination whether each student identified as meeting conditions (a)-(b) above requires compensatory education to make up for lack of progress toward annual IEP goals due to services not provided through a licensed special education teacher. CDE will then conduct follow up activities as appropriate.

- ii. Attendance and completion of training provided by CDE on IEP implementation; IEP development review, and revision; progress monitoring; and development of positive behavioral supports. This training will address, at a minimum, the requirements of 34 C.F.R. §§ 300.320, 300.321, 300.323, 300.324, and 300.501; ECEA Rules 3.03 and 3.04(1)(a)(i); and the related concerns noted in this decision. Director of Special Education and CDE Special Education Monitoring and Technical Assistant Consultant will determine the time, date, and format of the training. This training may be conducted in-person or through an alternative technology-based format, such as a video conference, web conference, webinar, or webcast. This training is mandatory for all special education staff at School, Case Manager, School Psychologist, Director of Special Education, and all District coordinators (or District equivalent). Such training shall be completed no later than **Friday, April 7, 2023**.
 - iii. Evidence that this training occurred must be documented (i.e., training schedule(s), legible attendee sign-in sheets, or other form of documentation, with names, titles, and signed assurances that they attended the training) and provided to CDE no later than **Friday, April 14, 2023**.
- b. CDE will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, CDE will arrange to conduct verification activities to confirm District’s timely correction of the areas of noncompliance.

2. Procedures to Address Systemic Violations and Compensatory Education Services

- a. By **Monday, May 8, 2023**, District shall submit to CDE Special Education Monitoring and Technical Assistance Consultant, finalized written procedures to address all systemic concerns noted in this Decision, to specifically include procedures regarding IEP implementation (including the requirements of 34 C.F.R. § 300:323(d)); IEP Team meeting (including procedures around securing parental presence); IEP development, review, and revision; progress reporting; verification of staff training; and procedures to guide District’s practice around the “finalization” of IEPs. These procedures must be consistent with the requirements of requirements of 34 C.F.R. §§ 300.320, 300.321, 300.323,

300.324, and 300.501; ECEA Rules 3.03 and 3.04(1)(a)(i). CDE will then conduct follow up activities as appropriate.

- b. By **Monday, February 6, 2023**, District must submit to CDE Special Education Monitoring and Technical Assistance Consultant a plan for how District intends to individually determine the extent to which students in Former Case Manager's caseload require compensatory education.
 - i. This plan must be consistent with OSEP's guidance for determining compensatory services. *See Return to School Roadmap: Development and Implementation of Individualized Educ. Programs in the Least Restrictive Environment under the Individuals with Disabilities Educ. Act*, 79 IDELR 232 (OSERS 2021), Questions D4-6.
 - ii. This plan must also be consistent with CDE's guidance for determining compensatory services. *See Special Education & COVID-19 FAQs* (CDE 2021), Compensatory Services, available at https://www.cde.state.co.us/cdesped/special_education_faqs#compensatory.
 - iii. While the above guidance was written to address the impact of the COVID-19 Global Pandemic, it provides instructive direction to any IEP teams considering a need for compensatory education and/or how to structure such an award.
- c. If CDE Special Education Monitoring and Technical Assistance Consultant and District reach agreement on the plan by **Monday, March 6, 2023**, District must use the plan to make individualized determinations about each Student's need for compensatory services.
- d. If District and CDE Special Education Monitoring and Technical Assistance Consultant cannot reach agreement on a plan by **Monday, March 6, 2023** or the CDE has concerns with the schedule submitted pursuant to 2(e) below, District will respond within two weeks to any record requests from CDE to allow CDE to determine the compensatory education awards.
- e. District shall submit a schedule of all Students' compensatory services to CDE Special Education Monitoring and Technical Assistance Consultant no later than **Monday, April 10, 2023**. District shall schedule compensatory services in collaboration with the students' parent(s). A meeting is not required to arrange this schedule, and the parties may collaborate, for instance, via e-mail, telephone, video conference, or an alternative technology-based format to

arrange for compensatory services. These compensatory services shall begin as soon as possible and will be in addition to any services students currently receive, or will receive, that are designed to advance students toward IEP goals and objectives. The parties shall cooperate in determining how the compensatory services will be provided. If the parent(s) refuse to meet with District within this time, District will be excused from delivering compensatory services, provided that District diligently attempts to meet with parent(s) and documents such efforts. A determination that District diligently attempted to meet with a student's parent(s), and should thus be excused from providing compensatory services, rests solely with CDE.

- f. Monthly consultation between the provider(s) delivering compensatory services and Director of Special Education must occur to evaluate Students' progress in general education and towards IEP goals and adjust instruction accordingly. The purpose of this consultation is to help ensure that compensatory services are designed and delivered to promote progress in general education and on IEP goals. District must submit documentation that these consultations have occurred **by the second Monday of each month**, once services begin, until compensatory services have been completed. Consultation logs must contain the name of the student, the name and title of the provider(s), and the date, the duration, and a brief description of the consultation.
- g. To verify that students have received the services required by this Decision, District must submit records of service logs to CDE by the **second Monday of each month** until all compensatory services have been completed. The name of the student, the name and title of the provider, as well as the date, the duration, and a brief description of the service, must be included in the service log. All compensatory services must be completed by **Monday, September 23, 2023**.
- h. If for any reason, including illness, students are not available for any scheduled compensatory services, District will be excused from providing the service scheduled for that session. If for any reason District fails to provide a scheduled compensatory session, District will not be excused from providing the scheduled service and must immediately schedule a make-up session in consult with student's parent(s) and notify CDE of the change in the appropriate service log.

3. IEP Meeting and Reevaluation

- a. By **Monday, February 13, 2023**, District must conduct a comprehensive evaluation of Student in all possible areas of need. Consent for the evaluation must be obtained no later than **Monday, December 19, 2022**. Although District may determine the appropriate evaluations and evaluators, the evaluation must be conducted in all areas of suspected need and must include an FBA. The FBA

may not be completed by School Psychologist and must instead be provided by a District BCBA or an outside BCBA. Evidence that this evaluation has occurred—including consent to evaluate, PWN, and the evaluation report—shall be provided to CDE by **Monday, February 17, 2023**.

- i. If Parent does not provide consent to this evaluation within 10 days of receiving the request to evaluate, District will be excused from conducting the evaluation ordered in this decision. District will document its attempts to secure parental consent for the evaluation and provide to CDE upon request.
- ii. Student’s IEP team shall consider the results of the evaluation and tailor Student’s IEP to meet Student’s individualized needs, consistent with 34 C.F.R. § 300.324. To evidence that the IEP team considered this evaluation and appropriately tailored Student’s IEP, the District shall provide a copy of Student’s final IEP to CDE by **Monday, February 20, 2023**.

4. **Compensatory Educational Services and Denial of FAPE**

- a. Student shall receive **135 minutes of indirect case management**. This indirect case management must be provided by an appropriately licensed special education teacher. All 135 minutes must be completed by **Friday, September 1, 2023**.
- b. Student shall receive **1200 minutes of direct counseling services and/or direct behavioral intervention services**. After Student is reevaluated, the IEP Team can apportion the minutes between direct counseling services and direct behavioral intervention services to address Student’s needs as shown by the FBA. This instruction must be provided by an appropriately licensed mental health provider. All 900 minutes must be completed by **Friday, September 1, 2023**.
- c. Student shall receive **540 minutes of direct specialized instruction** in writing. This instruction must be provided by an appropriately licensed special education teacher. All 540 minutes must be completed by **Friday, September 1, 2023**.
- d. Student shall receive **3,600 minutes of direct specialized academic support**. This academic support must be provided by an appropriately licensed special education teacher. All 3,600 minutes must be completed by **Friday, September 1, 2023**.
- e. Monthly consultation between Provider(s) delivering compensatory services and Student’s special education teacher shall occur to evaluate Student’s progress

towards IEP goals and adjust instruction accordingly. The purpose of this consultation is to help ensure that compensatory services are designed and delivered to promote progress on IEP goals. District must submit documentation that these consultations have occurred by **the second Monday of each month** until compensatory services have been completed and no later than one year following the date of this decision. Consultation logs must contain the name and title of the provider, and the date, the duration, and a brief description of the consultation.

- f. All compensatory educational services must be completed by **Friday, September 1, 2023**, though Parent and Student may opt out of some or all of the compensatory educational hours if they wish.
- g. To verify that Student has received the services required by this Decision, District must submit records of service logs to CDE by the **second Monday of each month**, once services begin, until all compensatory education services have been provided. Service logs must contain the name and title of the provider (if services are delivered through a private provider), and the date, the duration, and a brief description of the service. District shall communicate with the private provider to obtain this information if the compensatory services are provided through a contract with a private provider.
- h. By **Monday, March 6, 2023**, District shall schedule compensatory services in collaboration with Parent. A meeting is not required to arrange this schedule, and the parties may collaborate, for instance, via e-mail, telephone, video conference, or an alternative technology-based format to arrange for compensatory services. These compensatory services shall begin as soon as possible and will be in addition to any services Student currently receives, or will receive, that are designed to advance Student toward IEP goals and objectives. These compensatory services must be provided to Student outside of the regular school day (such as before and/or after school, on weekends, or during school breaks) to ensure Student is not deprived of the instruction Student is entitled to (including time in general education). The parties shall cooperate in determining how the compensatory services will be provided. If Parents refuse to meet with District within this time, District will be excused from delivering compensatory services, provided that District diligently attempts to meet with Parents and documents their efforts. A determination that District diligently attempted to meet with Parents, and should thus be excused from providing compensatory services, rests solely with CDE.
- i. District shall submit the schedule of compensatory services to CDE no later than **Monday, March 13, 2023**. If for any reason, including illness, Student is not available for any scheduled compensatory services, District will be excused from

providing the service scheduled for that session. If for any reason District fails to provide a scheduled compensatory session, District will not be excused from providing the scheduled service and must immediately schedule a make-up session in consult with Parent and notify CDE of the change in the appropriate service log.

Please submit the documentation detailed above to CDE as follows:

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

NOTE: Failure by the District to meet any of the timelines set forth above may adversely affect District's annual determination under the IDEA and subject District to enforcement action by the Department. **Given the current circumstances surrounding the COVID-19 pandemic, the Department will work with District to address challenges in meeting any of the timelines set forth above due to school closures, staff availability, or other related issues.**

CONCLUSION

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

Dated this 20th day of November, 2022.



Ross Meyers
State Complaints Officer

APPENDIX

Complaint, pages 1-16

- Exhibit 1: IEPs/BIPs

Response, pages 1-12

- Exhibit A: IEPs
- Exhibit B: BIPs
- Exhibit C: PWNs
- Exhibit D: NOMs
- Exhibit E: Meeting Notes
- Exhibit F: Progress Monitoring
- Exhibit G: Service Logs
- Exhibit H: Grades/Attendance
- Exhibit I: Evaluation Reports
- Exhibit J: School Calendar
- Exhibit K: none
- Exhibit L: Correspondence
- Exhibit M: none
- Exhibit N: none
- Exhibit O: Other Documents

Reply, pages 1-22

- Exhibit 2: Letter from Parent
- Exhibit 3: Outside Evaluation Report
- Exhibit 4: Former Case Manager Emails
- Exhibit 5: July 19, 2022 Report
- Exhibit 6: Behavior Detail Report
- Exhibit 7: December 18, 2018 PWN
- Exhibit 8: October 23, 2022 Email
- Exhibit 9: Character Letter
- Exhibit 10: IEP Participants Page
- Exhibit 11: Audio Recording of Meeting (Combined)
- Exhibit 12: BIP Comparison Illustration
- Exhibit 13: 2018 BIP
- Exhibit 14: Email from Director of Special Education
- Exhibit 15: September 27, 2022 Email
- Exhibit 16: September 20, 2022 PWN

Telephone Interviews

- Case Manager: October 28, 2022
- Director of Special Education: October 27, 2022
- Former Case Manager: October 27, 2022
- General Education Teacher: October 28, 2022
- Parent: November 1, 2022
- School Psychologist: October 28, 2022