

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

**State-Level Complaint 2018:535
Mesa County Valley School District 51**

DECISION

INTRODUCTION

This state-level complaint (Complaint) was filed on October 18, 2018, by the parents of a child identified as eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA).

The State Complaints Officer (SCO) determined that the Complaint identified five allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153. Four of the allegations accepted for investigation were Student-specific, and one was systemic in nature.

On November 6, 2018, Parents' Attorney requested that the four Student-specific allegations be dismissed based on pending litigation in federal district court. Consequently, this investigation addresses only the remaining systemic allegation.

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 of IDEA that occurred not more than one year from the date the Complaint was filed. Accordingly, this investigation will be limited to events that occurred no earlier than October 18, 2017, to determine whether a violation of IDEA occurred. Information prior to this date may be considered to fully investigate all allegations accepted for investigation. Findings of noncompliance, if any, shall be limited to one year prior to the date the Complaint was filed.

COMPLAINT ALLEGATION

Whether the District has a policy, procedure, or practice in place that prevents parents from including advocates as members of the IEP team, consistent with 34 C.F.R. § 300.321(a)(6).

FINDINGS OF FACT

After an analysis of the record detailed in the appendix attached and incorporated by reference, the SCO makes the following findings:

Background: Historical Tension between District and Advocacy Organization

1. This Complaint originates out of a particular tension that developed between the District and a local Advocacy Organization during the 2015-16 school year. The genesis of this tension was the movement of personnel from the District to the Advocacy Organization. In August of 2015, Former Special Education Director (now Executive Director of Advocacy Organization) resigned from the District to accept a new position with Advocacy Organization. Given that she had served as the District's Director of Special Education for five years prior to joining Advocacy Organization, Executive Director was uniquely knowledgeable about the District's resources and personnel. In her new role, Executive Director began attending IEP meetings with parents, including meetings comprised of individuals she had recently supervised. In addition, Advocate 2 was previously employed as a special education teacher in the District and was similarly familiar with the District's resources and personnel. *Response; Affidavit of Special Education Coordinator-Compliance; Affidavit of Advocacy Organization's Executive Director; Interviews with District Special Education Coordinators, School Psychologist, Advocacy Organization's Executive Director, and Advocate 2.*

2. From the District's perspective, Advocacy Organization shifted from a collaborative to a more aggressive approach to advocacy soon after Executive Director began her tenure, creating a more combative environment for IEP meetings. To illustrate problematic conduct, the District personnel described incidents where Advocates were confrontational and rude to District staff; accused District staff of "wrongdoing" and threatened legal action; insisted that all communication with parents be directed to the Advocate; began attending routine meetings any time parents were scheduled to meet with staff, such as parent-teacher conferences; made generic requests for services that were not requested by parents; encouraged parents to request meetings outside of normal school hours and for a minimum of two-three hours; and submitted burdensome document requests. In addition, several Special Education Coordinators recounted meetings in which Advocate 2, a former special education teacher in the District, crossed boundaries in meetings, including a meeting in which she grabbed a laptop from a District staff who was struggling to operate the IEP software program. *Response; Affidavit of Special Education Coordinator-Compliance; Affidavit of Advocacy Organization's Executive Director; Interviews with District Special Education Coordinators, and School Psychologist.*

3. In like manner, Special Education Director described Advocacy Organization's approach as more confrontational and aggressive than other advocacy organizations with which she has had considerable and positive experiences. Rather than working with parents to help them understand the process and ask questions, as had been her experience with other advocacy organizations, Advocates from Advocacy Organization are more likely to speak for parents and

demand services that the family has not requested. Given Special Education Director's tenure in the field, as well as her experience in various parts of the state, the SCO finds her concerns and observations credible. *Interview with Special Education Director and Special Education Coordinator-Compliance.*

4. From Advocacy Organization's perspective, the District's treatment of Advocates shifted from welcoming to contentious following a state complaint decision issued by this SCO in 2015, a decision in which the parents prevailed. It was after this particular decision that Executive Director experienced resistance and barriers to her participation, indeed her very attendance, in IEP meetings. *Interview with Executive Director of Advocacy Organization.*

5. Contrary to the District's characterization, Executive Director described the organization's approach to advocacy as collaborative, an approach in which Advocates help prepare families to participate meaningfully in IEP meetings and to serve as a bridge between the school and the family when communication is difficult. All three Advocates stated that they approach advocacy with a "growth mindset" that involves seeking to understand and collaborate with the IEP team to develop the best plan for the student. As evidence of her commitment to a collaborative approach, Executive Director has reached out to Special Education Director to discuss tensions, and the two have met in an effort to work better together on behalf of students and families. *Interviews with Executive Director of Advocacy Organization, Advocate 1 and Advocate 2.*

The District's Practice Regarding Attendance of Advocates at IEP Meetings

6. To address the perceived tension, as well as what it identified as combative conduct, the District implemented a practice during the 2015-16 school year to limit an Advocate's attendance to meetings that had been formally "noticed" as IEP meetings. Specifically, Advocates are permitted to attend IEP meetings at the invitation of parents but are not allowed to attend non-IEP meetings. Further, a Special Education Coordinator must attend any IEP meeting in which an Advocate is also in attendance. Special education staff are informed of this practice at the beginning of the school year during the District's "kick-off" training, as well as during regular staff meetings. This practice is currently in place and only applied to advocates from Advocacy Organization. *Response; Affidavit of Special Education Coordinator-Compliance at 2-3; Affidavit of Advocacy Organization's Executive Director; Email Correspondence; Interviews with District Special Education Coordinators, School Psychologist, Advocacy Organization's Executive Director, Advocate 1, and Advocate 2.*

7. To determine whether this practice violates IDEA, it is necessary to investigate how the District distinguishes an IEP from a non-IEP meeting. In general, the District's written policy defines an IEP meeting as a meeting that is "noticed" in accordance with IDEA, and one of four types: 1) an initial meeting to determine eligibility and disability, 2) a triennial meeting to determine eligibility and disability, 3) an annual review, and 4) other, defined as meetings involving a manifestation determination, behavior intervention plan, minor adjustments to a

student's IEP, or addressing a specific related service. *Exhibit A* at 18-19 and 37. Consistent with this definition, School Psychologist and the District's acting Special Education Coordinators identified IEP meetings to include the following types of meetings: determining eligibility and drafting an initial IEP; reviewing/revising an existing IEP; conducting a manifestation determination; reviewing/revising a behavior plan; and considering a significant change of placement or changes to programming and services in a student's IEP. *Interviews with District Special Education Director and Special Education Coordinators.*

8. In general, examples of non-IEP meetings identified by District staff included parent-teacher conferences, a re-entry meeting following suspension; a meeting with a principal or assistant principal to discuss discipline; a meeting to review intervention data from a multi-tiered system of support (MTSS) process; a meeting to review existing data (RED) as part of a special education referral; and an evaluation planning meeting. *Interviews with District Special Education Director, School Psychologist, and Special Education Coordinators.*

9. While the District's written policies and procedures do not specifically define a non-IEP meeting, the SCO finds the following District guidance concerning the special education referral process and the RED meeting instructive.

Review of Existing Data. Once a [special education referral] is received, the building special education team (BSET) must review the referral and existing information regarding the student. Based on the review, the BSET will determine the appropriateness of the referral. . . .

If the BSET determines the referral is appropriate, then the BSET and parents must meet and review the existing data to determine whether additional evaluation data are needed. . . .

PRACTICE TIP: The federal regulations allow the review of existing information to be conducted without a meeting, but it is best practice for the review to occur in a meeting so that the team may have notes in the IEP (see, Chapter E, IEPs) recording its discussion of the necessary evaluative information so that the scope of the evaluative information is clear. Further, the team should not limit the evaluator's professional discretion to select appropriate instruments and evaluation procedures, but rather pose questions requesting the information that the team needs in order to program effectively for the student. Ex. A at 2-3.

Application of the District's Practice to Specific Meetings

10. As part of this Complaint, Parents and Advocacy Organization have offered specific incidents as evidence that the District's practice violates IDEA by excluding advocates from meetings that should be considered IEP meetings and/or by impacting parent participation by rescheduling IEP meetings when a Special Education Coordinator cannot be present. The SCO will examine these specific incidents in turn. Each meeting referenced below involved a

different student and family. Several of the meetings referenced by Advocacy Organization do not appear below because they lacked sufficient detail or factual basis to investigate further.

August 6, 2018 Meeting for Student 1

11. Parents assert that the District's practice impeded their right to invite Student's medical/treatment providers and Executive Director of Advocacy Organization to a meeting on August 6, 2018, to discuss an evaluation plan and interim placement by cancelling it as an IEP meeting. Based on the following findings, the SCO agrees.

12. On July 25, 2018, Parents' Attorney emailed the District's Attorney to request an IEP meeting for the purpose of discussing placement for Student. In response, the District's Attorney stated that the team would work on scheduling an IEP meeting as soon as possible and further requested that Parents provide updated records from Student's most recent treatment providers. After exchanging emails concerning access to Student's medical records, the District's Attorney advised Parents' Attorney that the District lacked "sufficient current information regarding [Student's] condition and needs to develop an appropriate IEP" and would therefore need to conduct a reevaluation before scheduling an IEP meeting. *Ex. 26, Email Correspondence.*

13. On August 1, 2018, the District's Attorney informed Parents' Attorney that the IEP meeting scheduled for August 6 was being cancelled and an "evaluation planning" meeting would be held at the same time and place to discuss the assessments needed to determine an appropriate placement. Notably, the District personnel scheduled to attend the IEP meeting were the same personnel who would be attending the "evaluation planning" meeting. The District also informed Parents that it would like to discuss an interim educational placement for Student pending the results of the reevaluation. *Id.*

14. On August 2, 2018, in response to the cancellation of the IEP meeting, Parents' Attorney informed District's Attorney that Parents wanted to invite three of Student's treatment providers to attend the "assessment meeting" to provide information related to an evaluation plan and possible interim placement. Parents' Attorney also informed the District's Attorney that Parents planned to bring Executive Director of Advocacy Organization to this meeting as well, as Parents' Attorney was not planning to attend. *Ex. 26, Email Correspondence.* The SCO has not been provided with further correspondence indicating that the District responded directly to the request to invite treatment providers and Executive Director to the meeting.

15. At the beginning of the meeting, however, Parents were informed that the three providers they had invited, all three of whom were in attendance, would not be allowed to participate since this meeting was not an IEP meeting. Special Education Coordinator – Compliance further explained that the providers were excluded because they had no recent information concerning Student and had testified at a recent due process hearing that Student could not be appropriately served by the District, a position they now appeared ready to

contradict. Executive Director of Advocacy Organization did not attempt to attend this meeting once it had been canceled as an IEP meeting because she knew she would be excluded based on the District's practice of prohibiting Advocates from attending non-IEP meetings. *Recording of August 6 Meeting; Interviews with Parents, Special Education Coordinator-Compliance, and Executive Director of Advocacy Organization.*

16. Although the providers were excluded from this meeting, the District team and Parent proceeded to develop an evaluation plan based on a review of existing data, and Parent signed consent to evaluate at this meeting. In addition, Parents' Attorney attended this meeting. The SCO notes that the District and Parents are currently engaged in litigation in federal district court concerning Student's placement and educational services.

September 14, 2018 Meeting for Student 2

17. On September 14, 2018, Advocate 2 went with Parent to a meeting scheduled to discuss Student's behavior. According to Advocate 2 and Special Education Coordinator, the purpose of this meeting was to discuss Student's behavior and whether current accommodations were working. Participants of this meeting included a Special Education Coordinator, Principal, Assistant Principal, School Psychologist, Speech Language Pathologist, Occupational Therapist, General Education Teacher, Special Education Teacher, and Parent. When Parent and Advocate 2 arrived, Special Education Coordinator informed Parent that Advocate 2 would not be allowed to attend this meeting because it was not an IEP meeting. According to Special Education Coordinator, Special Education Teacher was more comfortable meeting without Advocate and an IEP meeting was scheduled for the following month. Notably, this meeting included at least eight District personnel, including several members of Administration. In face of the large number of District personnel in attendance, Advocate 2 nevertheless encouraged Parent to attend the meeting without her and did participate in the subsequent IEP meeting. *Affidavit of Executive Director or Advocacy Organization; Interviews with Advocate 2 and Special Education Coordinator.*

October 23, 2018 Meeting for Student 3

18. On or around October 19, 2018, Parents were informed that the IEP meeting scheduled for October 23, 2018, would need to be rescheduled because the Special Education Coordinator would not be in attendance and the family had invited an Advocate. Although the IEP meeting was rescheduled for the next day, Father was forced to "juggle his work schedule" and unable to participate for the full IEP meeting. *Affidavit from Parents; Interview with Advocate 1.*

November 6, 2018 Meeting for Student 4

19. A reevaluation meeting scheduled for November 6, 2018, was rescheduled when the family invited Executive Director of Advocacy Organization to the meeting because a Special Education Coordinator was not scheduled to be in attendance. According to the family, they had notified the District that they would be bringing an advocate to the meeting. The meeting

was rescheduled for December 4, 2018. As a result of the rescheduling, one Parent was unable to attend due to work schedule and the Student's adaptive physical education (APE) teacher was unable to attend due to a dental emergency. The APE teacher was properly excused and provided written input to the meeting. *Affidavit from Parent; Interviews with Executive Director of Advocacy Organization and Special Education Coordinator.*

CONCLUSIONS OF LAW

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

Conclusion to Allegation One: Although the District's stated practice does not itself violate IDEA, its application to several specific meetings has resulted in participants, including Advocates, being improperly excluded from IEP meetings, in violation of 34 C.F.R. § 300.321(a)(6).

The IDEA's procedural requirements for developing a student's IEP are designed to provide a collaborative process between parents and educators, a process that places special emphasis on parental input and involvement. *Andrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174, 137 S. Ct. 988, 997 (U.S. 2017). Simply defined, collaboration means working together to accomplish a shared goal. But collaboration in the context of IDEA's extensive procedural requirements is anything but simple. Although members of the IEP team share the same goal, developing an educational program for a particular student with a disability, the work they are expected to do *together* during the course of an IEP meeting often places parents at a disadvantage.

Before discussing the common disadvantages parents may face in an IEP meeting, it is important to recognize that parents and school districts are essentially equal members of the IEP team. First, it is the District's affirmative obligation to offer and provide an IDEA-eligible student with a free appropriate public education (FAPE). In the face of disagreement at the IEP meeting, the District must nevertheless fulfill its obligation by putting an offer of FAPE on the table in the form of a proposed IEP—and do so in a timely manner. Parents who do not agree with the District's offer of FAPE may then seek resolution through IDEA's three formal dispute resolution options: mediation, state complaint, and due process complaint. In addition, IDEA's various procedural safeguards, such as the right to request an independent education evaluation, serve as counter-weights to the District's power and authority in the IEP process. Of course, exercising these procedural safeguards requires both an adequate understanding of special education law and access to the resources, emotional and financial, necessary to initiate and see them through.

Although parents are equal members of the IEP team, the differences between parents and educators concerning access to information, expertise and familiarity with the special education process and language, as well as real and perceived differences in decision making authority, are common sources of a power imbalance that impacts the collaborative process

contemplated by IDEA. “Typically, there are significant asymmetries in the expertise level of parents and school districts personnel, and these asymmetries can warp the deliberative process. Thus while parents may have a deep sense of their child’s character, of what challenges her, or what makes her happy or sad, they typically do not have access to the technical language of the psycho-educational testing and educational interventions.” Chopp, Debra, *School Districts and Families under the IDEA: Collaborative in Theory, Adversarial in Fact*, 32 J. Nat’l Ass’n Admin. L. Judiciary, 423, 434 (2012). To begin, most parents walk into an IEP meeting where almost every chair at the table is filled by school district personnel. 34 C.F.R. § 300.321. Once the meeting starts, school district personnel facilitate or direct the conversation to ensure that the process for developing the IEP is followed, often utilizing a professional language and format unfamiliar to parents. Together, these features of the IEP meeting convey a strong message that the District is in control of the process, a message that can leave parents feeling alienated and disempowered.

Acknowledging the imbalance of power that challenges the collaborative process contemplated by IDEA, the Department now considers whether the District’s practice regarding the participation of Advocates violated IDEA. Notably, there is no factual dispute that the District has a practice that prohibits Advocates from attending non-IEP meetings and requires the attendance of a Special Education Coordinator in any IEP meeting attended by an Advocate. On its face, this general practice is not prohibited by IDEA. Both parents and school districts may invite individuals who have knowledge or special expertise regarding the child to an IEP meeting. 34 C.F.R. § 300.321(a)(6). Any determination regarding knowledge or special expertise must be made by the party who invited the individual to be part of the IEP team. 34 C.F.R. § 300.321(c). Accordingly, the District may, in its sole discretion, invite a special education coordinator to attend particular IEP meetings. The District may also prohibit Advocates from attending non-IEP meetings because IDEA only guarantees parents the right to participate in meetings with regard to the identification, evaluation and educational placement of the child, and the provision of FAPE to the child. 34 C.F.R. § 300.501(b).

Acknowledging the District’s obligation for hosting the IEP team and process, the SCO recognizes that the practice at issue in this Complaint was developed in an effort to manage conduct that District personnel had experienced as detrimental to the IEP process. As described in FF 1-4, there is merit to the District’s concern that Advocacy Organization’s approach was, in some cases, interfering with effective collaboration at IEP meetings. A collaborative approach to advocating for students with disabilities utilizes relationship-strengthening and student-centered strategies to resolve conflict. Moreover, a collaborative approach to advocacy empowers parents to participate meaningfully in the development of their child’s IEP by educating them about the special education process and the procedural safeguards, as well as helping to articulate, clarify, and prioritize their vision and concerns for their child. *See Collaborative Advocacy: Guiding Principles*, Center for Appropriate Dispute Resolution in Special Education (CADRE), for additional information about collaborative advocacy. Although there is no licensure, credential, or professional code of conduct required

for special education advocates in Colorado, they may voluntarily adhere to a code of ethics or guiding principles. The following are recommended resources for advocates to support the important work they do on behalf of students with disabilities and their families: 1) CADRE's Collaborative Advocacy: Guiding Principles, 2) The Council of Parent Attorneys and Advocates (COPPA) Voluntary Code of Ethics for Special Education Advocates, and 3) The CDE's Improving IEP Teams: Skills for Resolving Conflict.

Although the practice employed by the District is not prohibited by IDEA, the SCO concludes that its application in specific circumstances violated IDEA. Relevant to this conclusion is an analysis of how the District distinguishes an IEP meeting from other school-related meetings. Under IDEA, parents have the right to participate in meetings with regard to the identification, evaluation and educational placement of the child, and the provision of FAPE to the child. 34 C.F.R. § 300.501(b). Accordingly, a parent's right to invite someone to attend a school-related meeting extends only to such meetings, referred to in this decision as IEP meetings. 34 C.F.R. § 300.321(a)(6). An advocate invited to attend an IEP meeting at the invitation of a parent could not be excluded from the meeting. *See Letter to Serwecki*, 44 IDELR 8 (OSEP 2005)(Advocate may attend IEP meeting at invitation of parent even if parent is unable to attend.) Similarly, the refusal to work with a parent to schedule an IEP meeting in a way that would allow the attendance of a parentally chosen member of the IEP team, such as an advocate, would violate IDEA. *Deer Valley Unified Sch. Dist.*, 114 LRP 20306 (SEA AZ 4/17/14).

Notably, IDEA distinguishes an IEP meeting from "informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision." *Id.* § 300.501(b)(3). Further, an IEP meeting "does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting." *Id.* To promote efficiency, this provision simply excludes some of the planning and coordination activities that school district personnel routinely engage in from the more extensive procedural requirements related to convening an IEP team. When applying these exclusions, the SCO recognizes the following factors as relevant for determining whether a particular meeting should have been recognized and noticed as an IEP meeting: 1) whether the parent was specifically invited to the meeting; 2) whether the meeting was scheduled in advance; 3) whether the participants invited to the meeting would otherwise constitute an IEP team; and 4) whether the topic of discussion would involve evaluation and placement and/or the provision of FAPE. If the answer to all of these questions is yes, the meeting can reasonably be characterized as an IEP meeting.

Applying these factors to several meetings at issue in this Complaint, the SCO concludes that the District did not properly recognize and notice them as IEP meetings, in accordance with IDEA. As a consequence, the District improperly excluded participants chosen by parents from participating in the meeting, in violation of 34 C.F.R. § 300.321(a)(6). On August 6, 2018, the District excluded providers chosen by Parents to attend a meeting to discuss an evaluation plan

and potential interim placement for Student. Here, the District “cancelled” the previously scheduled meeting as an IEP meeting, renaming it an “evaluation planning” meeting. The “evaluation planning” meeting, however, was scheduled for the same date and time as the IEP meeting and included the entire IEP team. Although Parents participated in the meeting with their attorney, Student’s medical providers were excluded. Because this meeting was scheduled in advance, included parents, represented a properly constituted IEP team, and was convened to discuss evaluation and an interim placement, the SCO concludes that this was indeed an IEP meeting, regardless of the name given to it by the District. 34 C.F.R. § 300.501(b); *Huber Heights City Schools*, 117 LRP 5898 (OH SEA 2/2/2017)(Concluding that the school district violated IDEA by not inviting parent to a meeting that included most of the IEP team and addressed the provision of FAPE.)

On September 14, the District improperly excluded Advocate 2 from participating in a meeting at the invitation of Parent because it similarly failed to recognize it as an IEP meeting. Here, Parent had invited Advocate 2 to attend a meeting intended to discuss Student’s behavior and the effectiveness of accommodations. When they arrived at the meeting, Parent was told that Advocate 2 would not be allowed to attend. Parent chose to attend the meeting without Advocate 2. Because the meeting with parent was scheduled in advance, participants of this meeting constituted a proper IEP team and the purpose of the meeting was to review the effectiveness of accommodations, implicating the provision of FAPE. For these reasons, the SCO concludes that this was an IEP meeting.

Finally, the District’s requirement that a special education coordinator attend any IEP meeting attended by an Advocate has negatively impacted the participation of Parents in IEP meetings. On October 19 and November 6 of 2018, the District rescheduled IEP meetings because it did not have a Special Education Director in attendance—even though Parents had advised the District in advance that they had invited an Advocate. On both occasions, parents scrambled to juggle work schedules, resulting in one parent being unable to attend the rescheduled meeting. Given the importance of parent participation, the SCO concludes that this practice violated IDEA on these two occasions.

The right of parents to invite individuals, whether private providers or advocates, to participate in the development of their child’s IEP is essential to the exercise of meaningful parent participation. Given the difference in expertise, access to information, and familiarity with the special education language and process, an effective advocate can play a critical role in preparing parents to participate meaningfully and persuasively in the IEP meeting. And although the District’s obligation for holding the IEP meeting allows it to develop practices to safeguard the collaborative process, it must ensure that the practice does not infringe on a parent’s right to meaningfully participate in the IEP meeting.

REMEDIES

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

IEP Team at 34 C.F.R. § 300.321(a)(6).

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

By **January 28, 2019**, the District must submit to the Department a proposed corrective action plan (CAP) that addresses the violation noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student and all other students with disabilities for whom the District is responsible. The CAP must, at a minimum, provide for the following:

a) Submission of guidance/statement approved by CDE regarding the District's practice concerning IEP membership at 34 C.F.R. § 300.321(c). This guidance must address and distinguish IEP from non-IEP meetings consistent with this Decision. The guidance must be submitted to CDE for approval no later than **February 25, 2019**. CDE will revise the guidance, if appropriate.

b) The CDE approved guidance must be shared with all District staff responsible for scheduling IEP meetings, including all Special Education Coordinators, no later than **April 1, 2019**.

c) Evidence that this has occurred must be documented (i.e., signed assurances from all currently employed District special education coordinators and case managers that they have received and understand the approved guidance) and provided to CDE no later than **April 20, 2019**.

The Department will approve or request revisions to the CAP. Subsequent to approval of the CAP, the Department will arrange to conduct verification activities to verify the District's timely correction of the areas of noncompliance.

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

Colorado Department of Education
Exceptional Student Services Unit
Attn.: Beth Nelson
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 the District's annual determination under the IDEA and subject the District to enforcement action by the Department.

CONCLUSION

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

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

Dated this 17th day of December, 2018.

Candace Hawkins, Esq.
State Complaints Officer

Appendix

Complaint, pages 1-14.

Additional Information, pages 1-2.

Exhibits 1-22 were not considered because they pertained to the Student-specific allegations.

January 2018 IEP

Exhibit 23: Affidavit of Advocacy Organization Director

Exhibit 24: Email correspondence dated September 6, 2017

Exhibit 25: Emails and recording of August 2018 Meeting

Exhibit 26: Email Correspondence between District Special Education Director and Disability Rights Organization Executive Director.

Exhibit 27: Affidavits from Disability Rights Organization

Response, pages 1-7 (including Affidavit of Special Education Coordinator-Compliance)

Exhibit A: District Policy and Procedures

Exhibit B: District refused to produce requested correspondence based on attorney-client privilege

Exhibit C: Email correspondence

Exhibit D: Email correspondence

Reply, pages 1 -7

Interviews with:

- Parents
- Advocacy Organization Executive Director
- Advocate 1
- Advocate 2
- Special Education Director
- Special Education Coordinator-Compliance
- Special Education Coordinator 2
- Special Education Coordinator - High Schools
- Special Education Coordinator - West Valley Elementary Schools
- Special Education Coordinator - East Valley Elementary Schools
- Special Education Coordinator – Director of Early Childhood Education
- Special Education Coordinator - Middle Schools
- School Psychologist