

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

State-Level Complaint 2022:519
Boulder RE-1J, St. Vrain

AMENDED DECISION

INTRODUCTION

On April 26, 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 Boulder RE-1J, St. Vrain (“District”). 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 CFR §§ 300.151 through 300.153. Therefore, the SCO has jurisdiction to resolve the Complaint.

On May 19 and June 8, 2022, the SCO extended the 60-day investigation timeline to allow the parties to participate in mediation. However, the mediation resulted in impasse, and, on June 28, 2022, the SCO resumed the investigation.

RELEVANT TIME PERIOD

Pursuant to 34 C.F.R. §300.153(c), the Colorado Department of Education (the “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 April 26, 2021 through April 26, 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 conduct a comprehensive evaluation of Student between October 13, 2021 and present, by failing to evaluate Student in all areas of suspected disability, in violation of 34 C.F.R. § 300.304(c)(4).

¹ The IDEA is codified at 20 U.S.C. § 1400, *et seq.* The corresponding IDEA regulations are found at 34 C.F.R. § 300.1, *et seq.* The Exceptional Children’s Education Act (“ECEA”) governs IDEA implementation in Colorado.

2. Failed to develop, review and revise an IEP that was tailored to meet Student's individualized needs, from August of 2021 to present, in violation of 34 C.F.R. §§ 300.323-324, specifically by:
 - a. Failing to consider the results of the most recent evaluation;
 - b. Failing to develop goals to address Student's needs in math, literacy, and social emotional functioning; and
 - c. Failing to include behavioral strategies and supports that adequately addressed Student's behavioral needs.
3. Failed to provide Parent with periodic reports on Student's progress between August 1, 2021 and present, in violation of 34 C.F.R. § 300.320(a)(3)(iii);
4. Improperly determined that Student's behavior was not a manifestation of his disability during any MDRs held on or after January 1, 2022, in violation of 34 C.F.R. § 300.530.
5. Failed to convene an IEP team meeting at Parent's request on or around March 18, 2022, to discuss Parent's concerns with Student's behavioral needs, in violation of 34 C.F.R. §§ 300.324(a)(1)(ii) and (b)(1).

FINDINGS OF FACT

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

A. Background

1. Student is thirteen years old and, during the 2021-2022 school year, attended seventh grade at a District school ("School"). *Interview with Parent; Exhibit A*, p. 1. Student and his family currently reside within the boundaries of District. *Exhibit A*, p. 1. Next year, Student will attend a charter school in District. *Interview with Parent and Special Education Director ("Director")*.
2. Student is currently identified as a child with a primary disability of Other Health Impairment ("OHI") and a secondary disability of Specific Learning Disability ("SLD") in written expression. *Exhibit A*, p. 1; *Exhibit D*, pp. 1-3. Throughout the 2021-2022 school year, Student was involved in several smaller and larger behavioral incidents that resulted in various consequences, including more than 10 days of removal from the classroom setting. See *Exhibit F*, p. 2 and *Exhibit D*, pp. 14-15.

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

3. Student is a friendly, popular, active child who enjoys skating and playing outside with friends. *Interviews with Parent, Special Education Teacher/Case Manager (“Case Manager”) and Speech Language Pathologist (“SLP”).* Student is a hard worker with a relative strength in math. *Interviews with Parent and Case Manager; Exhibit A*, p. 3. Student has been diagnosed with Attention-Deficit/Hyperactive Disorder – Combined Presentation (“ADHD”), Dyslexia, Dysgraphia and Specific Learning Disorder with Impairment in Math. *Exhibit 9*, pp. 45-46. Student struggles with many areas of executive functioning, including impulsivity, distractibility, organization, and prioritization. *Exhibit A*, p. 12. Academic testing reflects below average writing and math scores, and average reading scores which took him longer than average to achieve. *Exhibit E*, pp. 12-13.
4. Student first enrolled in District and at School in the Spring of 2019. *Id.* at p. 17. At the time, he was identified as a student with a SLD requiring specialized instruction in writing, reading and math. *Exhibit A*, p. 23. After District reevaluated Student in 2019, he was identified as a student with a SLD impacting reading and writing. *Id.* at p. 50.

B. Fall 2021 Reevaluation

5. District conducts reevaluations every three years, or any time a parent or school team feels there is a need. *Interview with Director.* Teams consider data from school and information from parents to determine what testing is necessary. *Interviews with Executive Director of Special Education (“Executive Director”), Director, Special Education Coordinator (“Coordinator”), and Case Manager.* A student’s service providers meet, review records, and solicit input from parents and general education teachers to identify areas of concern for evaluation. *Interview with Coordinator.* District works closely with newer school psychologists and social workers to support them in developing evaluation plans, but it does not provide any trainings or written procedures on the topic because it treats each student as an individual case. *Interview with Executive Director.*
6. District aims to provide parents with a draft of the evaluation report a week or more before the meeting, so that parents have time to review the information and come prepared with questions. *Interviews with Director and Coordinator.*
7. During the periods of remote learning due to the COVID-19 global pandemic, Parent observed how much Student was struggling to sit still and focus, follow directions and read aloud. *Interview with Parent.* In the spring of 2021, she began talking to Case Manager about moving up Student’s triennial reevaluation that was due the following spring. *Id.*
8. District suggests that Student was doing fine until an incident on October 13, 2021 and that Parent only sought to move up the evaluation because Student was suspended for five days in October. *Interview with Coordinator; Response*, p. 1.

9. The October 13, 2021 incident was Student’s second major incident of the school year. *Exhibit H*, p. 2. In addition, Case Manager told Parent that Student had been struggling with some behaviors in September. *Exhibit 5*, p. 5. A week before the October 13, 2021 incident, Case Manager reached out to Parent about their plan to move up the reevaluation. *Id.*
10. Parent identified several areas of concerns she wanted District to address in the evaluation, including auditory processing, language processing, ADHD, executive functioning, and dyslexia. *Exhibit 5*, p. 4. District identified ADHD as Parent’s primary concern. *Response*, p. 1. Although they exist, District did not produce several relevant emails, including Parent’s written explanation of her concerns or its response to the specific tests she requested, in response to this Complaint. *See Exhibit J.*
11. District agreed to evaluate general intelligence, communicative status, academic performance and social and emotional status, and sent Parent Prior Notice & Consent for Reevaluation (“October Consent”) on October 20, 2021. *Exhibit D*, p. 49. School’s psychologist (“School Psychologist”) explained to Parents that schools cannot test for Auditory Processing Disorders, as that requires medical training. *Exhibit 11*, p. 8. Both Parents signed the October Consent the day it was sent. *Exhibit M*, p. 11. District conducted several formal evaluations over the following weeks (“The Evaluation”). *Exhibit E*, p. 16.
12. Student’s cognitive abilities were generally in the average to high average range on the Weschler Intelligence Scale for Children, 5th Edition (“WISC-V”). *Id.* at pp. 21-23. Processing speed was an area of “relative and normative weakness” for student, as he scored in the very low range, at the 5th percentile. *Id.* at 22. School Psychologist noted that he “made numerous impulsive mistakes” and was frustrated by the time limits. *Id.*
13. Student’s academic abilities were assessed through the Kaufman Test of Educational Achievement, third Edition (“KTEA”) and a records review. *Id.* Student completed the six core subtests of the KTEA. *Id.* at 21. The Evaluation also reviewed his standardized testing scores, progress on current goals and teacher feedback. *Id.* at pp. 18-20.
14. At Parents’ request, the KTEA was administered by a District Instructional Coach (“Instructional Coach 1”) at a District facility, and not at School. *Interview with Instructional Coach 1*. Instructional Coach 1 was not aware of concerns about Dyslexia before conducting testing. *Id.* Had she known about those concerns, she would have conducted additional subtests of the KTEA to better evaluate Student’s needs and determine if additional testing was necessary. *Id.*
15. Student’s math composite on the KTEA was in the below average range, at the 10th percentile. *Id.* at p. 21. He struggled with precision as well as division and multiplication and scored in the low range on the math computation subtest. *Id.* His i-Ready math scores were also low, with performance at the fourth or fifth grade level in most areas. *Id.* at pp. 19-20.

16. The low math scores were particularly surprising to Parent, as Student likes and appears to do well in math class. *Interview with Parent*. Student's KTEA math scores were inconsistent with his classroom performance, likely because Student relies on the use of a calculator in class. *Interview with Case Manager*. According to Coordinator, because the math results were surprising, before the meeting they sought additional feedback from the math teacher who believed Student relied on a calculator but had no trouble with math concepts. *Interview with Coordinator*. Coordinator recalls a lengthy conversation where the team explained to the Parents that Student would qualify for a SLD in math calculation based on his scores, but that Parents did not want him pulled out of the general education math class. *Id.*
17. His written language composite was also below average at the 14th percentile. *Exhibit E*, p. 21. Handwriting and spelling were areas of weakness for Student. *Id.* His reading composite was in the average range, although the letter and word subtest was in the below average range and the reading comprehension "took him 1.5 times the recommended average for the subtest." *Id.* His i-Ready reading scores were stronger than math scores, but, as a seventh grader, he was comprehending informational text at a fifth-grade level. *Id.* at p. 19.
18. Parent was concerned about Student's history of Dyslexia and difficulty with reading and felt the School team was dismissive of those concerns. *Interviews with Parent and a family friend who happens to be a school psychologist ("Advocate 1")*. She does not recall any conversation about how long the reading portion of the KTEA took him or any need for help beyond his current accommodations. *Interview with Parent*. The team addressed Parent's concerns about Dyslexia and reading by explaining that Student would not qualify in that area due to his KTEA scores and a lack of academic impact. *Interview with Case Manager*.
19. To assess expressive and receptive language skills, the Speech and Language Pathologist ("SLP") administered the Clinical Evaluation of Language Fundamentals, fifth edition ("CELF") and the Peabody Picture Vocabulary Test, fifth edition ("PPVT"). *Id.* at pp. 25-27. Student scored in at least the average range on six of eight CELF subtests. *Id.* Although he performed relatively poorly on two subtests, sentence assembly and semantic relationships, SLP determined those scores should be interpreted with caution as he had performed well on similar skills in other subtests. *Id.* Based on the testing, SLP had no concerns about Student's ability to process auditory information or follow verbal directions. *Interview with SLP*.
20. Before the testing, Parent had concerns with Student's ability to process and attend to oral information and Student's football coach had trouble playing him because Student could not remember more than one play at a time. *Interview with Parent; Exhibit 5*, p. 3. She tried to explore those concerns and a potential relationship to the low subtest scores during the meeting and ask the questions posed by Advocate 1, but the team was dismissive of those concerns. *Interviews with Parent and Advocate 1*.
21. Student's behavior and executive functioning were assessed using the Delis Rating of Executive Functions ("D-REF") and the Connors – Third Edition ("Connors"). *Exhibit E*, p. 16.

The D-REF surveys were completed by Parent and Case Manager. *Id.* at p. 23. Parent identified clinically significant concerns with behavioral functioning and executive functioning and at-risk levels of concern overall and with emotional function in the home. *Id.* at p. 24. At school, Case Manager identified at-risk level concerns overall and with behavioral functioning. *Id.* at p. 23.

22. The Connors rating scales were completed by Parent and a classroom teacher. *Id.* at pp. 24-25. Student was rated in the very elevated range across settings “in the areas of Inattention, Hyperactivity/Impulsivity, and Learning Problems.” *Id.* at p. 25. Executive Functioning and defiance/aggression were rated as very elevated at school and elevated at home. *Id.*
23. A District Instructional Coach (“Instructional Coach 2”) completed two observations of Student and gathered ABC data for a Functional Behavioral Assessment (“FBA”). *Exhibit E*, pp. 20-21. All observations were conducted during structured class time. *Id.* During the observations, Student was frequently off task, more so than the comparison peer. *Id.* The FBA identifies seeking attention from peers as the antecedent for all behaviors but concludes that because there were “no recurring behaviors in the four classes observed, there are no targeted behaviors” to work on through a Behavior Intervention Plan (“BIP”). *Id.*
24. Coordinator indicated that this was not actually an FBA, but rather a screener to determine if a full FBA or BIP was required. *Interview with Coordinator*. Parent indicates the FBA is incomplete, as Student was not observed during any unstructured times. *Interviews with Parent and Advocate 1*. The SCO finds the pattern in behaviors can be the common function, in this case attention seeking, rather than commonalities in the behaviors themselves. *Interview with CDE Content Specialist*. The SCO also finds that the observations of Student were too short and unstructured to be an FBA. *Id.* The FBA did not include any interviews with Parent or staff who have observed behaviors. *See Exhibit E*, pp. 20-21.
25. The evaluation report includes one sentence describing Student’s first quarter progress on the goals from the February 22, 2021 IEP (“February IEP”). *Id.* at p. 18; *Interview with Case Manager*. No updated progress from second quarter was provided because the goals were written at the end of the semester. *Interview with Case Manager*. The February IEP states that Parents will be provided quarterly progress reports. *Exhibit A*, p. 51.
26. On his goal of earning a score of 80% or higher on paragraphs with evidence and reasoning to support a claim, Student averaged 85% on CER formatted writing assignments “this school year.” *Exhibit E*, p. 18. It is not clear if CER formatted writing assignments are the same as writing “paragraphs with a claim while giving evidence and reasoning.” *See Id.* at p. 18.
27. On his goal of editing and correcting work before submission, when given a teacher made checklist, Student was “submitting high-quality, neat work” 62% of the time without prompts and 73% of the time with prompts. It is unclear if the prompting was the provision of the

checklist or if the checklist was always available and Student sometimes required additional prompts. *See Id.*

28. Student's final goal was "with the use of a planner, (digital or paper copy) [Student] will complete his work and with no more than 1 late submission with 80% accuracy, on 3 out of 4 trials as measured by weekly teacher surveys." *Id.* Although not using a planner as much as the prior year, Student "continued to turn in his work at a rate that falls within the goal range," but it is not clear what percentage of assignments were completed on time or how Student was keeping track of assignments. *Id.*
29. A draft of the evaluation was shared with the Parent on November 28, 2022, about a week before the eligibility meeting. *Exhibit 11*, p. 13; *Interview with Case Manager*. Parent and Advocate 1 reviewed the draft in advance of the meeting and came prepared with concerns and questions. *Interviews with Parent and Advocate 1*.
30. The eligibility determination meeting ("Eligibility Meeting") was held virtually on December 6, 2021. *Exhibit E*, p. 1. Parents, Advocate 1, Case Manager, School Psychologist, SLP, a general education teacher, Coordinator and Instructional Coach 2—collectively the multidisciplinary team ("MDT")—attended the Eligibility Meeting. *Exhibit M*, p. 3. For unknown reasons, Advocate 1 was unable to be heard by other participants in the meeting. *Interviews with Parent and Advocate 1*. As a result, she had to text questions to Parent for her to ask. *Id.* This impacted Parent's engagement in the meeting and Advocate 1's ability to ask follow-up questions. *Id.* Parent indicated District dismissed many of Student's low scores, attributing his needs almost exclusively to ADHD. *Interview with Parent*.
31. After reviewing the evaluations, the MDT found Student eligible under the categories of OHI and SLD in written expression, with the former being primary. *Exhibit D*, pp. 1-3. That portion of the conversation, at the end of the meeting, felt rushed to Parent and Parent did not disagree, although she still had questions. *Interviews with Parent and Advocate 1*.

C. December 2021 IEP

32. When District personnel contact parents to schedule reevaluation meetings, they ask if the parents would like to hold the IEP meeting at the same time or have two meetings. *Interview with Coordinator*. Most families choose to combine the meetings, in which case District generally schedules them for two hours. *Id.* Sections of the IEP may be drafted in advance, but they write the goals together during the meeting. *Id.* At School, the IEP team generally drafts the IEP as it goes through the evaluations. *Interviews with Parent and Case Manager*.
33. Student's December IEP was drafted by the IEP team throughout the December 6, 2021 meeting. *Interview with Case Manager*. Most of the Evaluation Report is copied and pasted as the nine-page Present Levels of Educational Performance Summary. *See Exhibit A*, pp. 3-11.

34. Per the Student Needs and Impact of Disability (“SNID”) statement, Student is eligible for “special education under the category of OHI” which “impacts [Student’s] experience in the general education setting through his organization, prioritization, impulsivity, and distractibility.” *Id.* at p. 12. Although Student is also eligible under SLD for written expression and had identified areas of need in math and reading on the formal testing, no academic needs are reflected in the SNID statement. See *Exhibit E*, p. 21; *Exhibit A*, p. 12. The December IEP indicates that Student did not require a BIP. *Id.*

35. The December IEP contained three annual goals in writing and self-determination. *Id.* at pp. 12-14. Parent is to be emailed quarterly progress reports on these goals. *Id.* at p. 12.

- Self-Determination: “By December of 2022, [w]hen given a set of instructions, (verbal or written), [Student] will process the instructions, and independently begin working on the task with no more than two prompts or reminders from adults, 85% of the time on 4 out of 5 trials as measured by general education teacher surveys.”
- Writing: “By December of 2022, when given a formal writing task, [Student] will use given accommodations to draft, edit, and finalize the writing assignment, free of spelling or punctuation errors, and scoring at least an 80% on a grade level writing rubric on 3 out of 4 opportunities measured quarterly.”
- Self-Determination: “By December of 2022, [Student] will identify unexpected behaviors in himself and others, and will quickly and independently redirect himself away from those behaviors 85% of the time, on 4 out of 5 trials as measured by weekly surveys.”

Id.

36. The December IEP included all 13 accommodations from the February IEP, including “front-loaded, content vocabulary at start of each unit,” “graphic organizers (transitioning more to checklist formats),” “opportunities for movement,” “ruler or index card to support tracking when reading,” and “use of Math Manipulatives when available.” *Id.* at p. 14. The list of accommodations does not include use of a calculator. *Id.* The December IEP included one new accommodation to support Student’s newly identified difficulties with executive functioning, “chunking assignments to complete in stages.” *Id.* Student has a “Tech Deck” or fingerboard he uses as a fidget to help him focus. *Interview with Parent*. Some teachers allowed him to use it on his leg, under the desk, but use of fidgets is not one of Student’s accommodations and not every teacher allowed it. *Id.*

37. Under the December IEP, to support Student in the areas of self-determination and written expression, Student received a mix of direct, small group instruction outside of the general

education classroom and direct, push-in support inside the general education classroom as follows: 120 minutes per week (“MPW”) of direct special education instruction outside the general education classroom and 100 MPW of direct special education instruction inside the general education classroom. *Id.* at p. 16. Despite the addition of a new eligibility category and maintenance of three goals, the IEP team reduced Student’s direct instruction by 105 MPW. *Compare Exhibit A*, p. 55 and *Exhibit A*, p. 16. No mental health services, direct or indirect, were added to support the new behavior goal. *Id.* at 16.

38. Student participates in a special education academic support class with Case Manager for 45 minutes each day, or 225 MPW. *Interview with Case Manager*. He is also enrolled in a co-taught English Language Arts (“ELA”) class and Case Manager pushes into his science and social studies classes weekly to support him. *Id.*
39. Per the December IEP, Student spent at least 80% of the time in the general education classroom. *Id.* at 17.
40. Although Parent was surprised by and concerned about the low math scores, the rest of the IEP team did not see a need for a goal or services in that area. *Interviews with Parent and Advocate 1*. Student was performing adequately in a general education math class, indicating that his needs could be met through accommodations alone, including a calculator. *Interviews with Coordinator and Case Manager*. Case Manager also provides direct support with math during Student’s academic lab class. *Interview with Case Manager*. Coordinator recalls discussing providing time with a special education teacher to address Student’s math needs but deciding as a team that his needs could be met through accommodations alone. *Interview with Coordinator*.
41. The two sentence Prior Written Notice (“PWN”) imbedded in the December IEP was the only record of conversations that day produced by District and says only that the team “considered increasing [Student’s] pull-out service minutes but decided against it due to supporting academic data.” *Id.*
42. The IEP remained in draft form at the end of the December 6 meeting. *Interview with Parent*. Two days after the meeting, on December 8, 2021, Case Manager emailed Parents three draft goals. *Exhibit 6*, p. 12. Parent responded with questions about the measurability of the goals as well as Student’s baseline. *Id.* Parent and Case Manager ultimately met in the hallway to finalize the goals when Parent was picking up Student. *Interviews with Parent and Case Manager*.

D. The Independent Educational Evaluation (“IEE”) Request

43. Immediately after the Eligibility Meeting, School Psychologist sent Parent the eligibility documents to sign via Adobe Sign and she followed up three days later, on December 9, 2021, when Parents still had not signed. *Exhibit C*, pp. 8-9. Parent declined to sign, explaining that

she “left the meeting on Monday very unsettled,” feeling that the team dismissed Student’s academic difficulties as a consequence of his ADHD. *Id.* She asked about assessments in the area of dyslexia and phonological processing and pointed out that she had also sent Case Manager several questions about the proposed goals. *Id.* School Psychologist copied in Coordinator and Instructional Coach 2 to answer Parent’s questions and asked Parent what specifically she thought Student still needed. *Id.*

44. School Psychologist, Coordinator, and Instructional Coach 2 never answered Parent’s questions in writing. *Id.* Coordinator forwarded the concerns to Director to begin consideration of an IEE and directed School Psychologist to follow up with Parent by phone. *Interview with Coordinator.* School Psychologist is no longer with District, and Coordinator could not say when or if School Psychologist ever spoke with Parent about the concerns. *Id.* Parent never got a response to her concerns about the Evaluation. *Interview with Parent.*
45. Almost a month later, on January 5, 2022, Parent followed up with District and requested an IEE as no one had responded to her concerns. *Exhibit C*, p. 7. In the same email, Parent also requested weekly tutoring for the entirety of the semester because of the impact of prior disciplinary decisions that had not considered Student’s disability. *Id.* at pp. 7-8. District responded by issuing a standalone PWN denying Parent’s request for compensatory services and sending Parent the paperwork to formally request an IEE. *Exhibit C*, p. 2.
46. On January 11, 2022 District issued another standalone PWN stating that it would begin implementing the December IEP. *Id.* at p. 4. According to this PWN, Student was found eligible under the category of OHI, and the team rejected the possibility of eligibility under multiple categories. *Id.*

E. March 2022 Manifestation Determination Review

47. District typically holds Manifestation Determination Reviews (“MDRs”) when students reach 10 days of suspension. *Interviews with Executive Director and Coordinator.* District tries to have an administrator present at almost all MDRs but does not provide special education teams with any policies or written guidance on how to conduct them. *Interviews with Executive Director.* MDR teams follow the questions on the form. *Id.* At School, MDRs are held on the date of the reentry meeting once a student has been suspended for 10 days. *Interview with Case Manager.* District policy accurately states that MDRs must be held within 10 school days of a decision that results in a disciplinary change of placement. *Exhibit I*, p. 61.
48. On March 7, 2022, Student was suspended for three days after he and a group of friends posted a video on Tik Tok over the weekend, which was perceived as targeting two classmates. *Exhibit H*, p. 5. Student’s part of the incident was “saying ‘we should post it’ when the boys were together.” *Exhibit D*, p. 10

49. At that point, Student had already served two and a half days of in-school suspension (“ISS”) and five days of out of school suspension (“OSS”). *Id.* at pp. 10-11. With the additional three days of OSS, School determined that Student had reached ten days of removal from his educational setting, triggering a “manifestation hearing.” *Exhibit J*, p. 2.
50. On the evening of March 8, 2022, School Principal (“Principal”) informed Parent that an MDR would have to be scheduled “as soon as possible.” *Id.* It was Parent’s understanding that School wanted to hold the meeting at the same time as the reentry meeting, which had to happen before Student could return to school. *Id.* at p. 1. Given this understanding, Parent agreed to meet on Thursday, March 10 after 1 p.m. *Id.* Although the suspension was over, Student was “out of school one additional day due to the scheduling of the MDR/re entry meeting.” *Exhibit D*, p. 12; *Interview with Parent*. School recorded the day as an excused absence, and not a fourth day of suspension. *Exhibit G*, p. 2.
51. At 6:08 p.m. on March 9, School issued notice of the MDR scheduled for 1:15 p.m. on March 10 (“March MDR”). *Exhibit J*, p. 1; *Exhibit D*, p. 4. Advocate 1 was not available on that date, so, unaware that she could ask for another date, Parent found and hired another advocate (“Advocate 2”). *Interview with Parent*.
52. Before the March MDR, Parent requested documentation of the current suspension, along with all of Student’s educational records including attendance, health records, IEP records, disciplinary records, counseling records, testing, and Progress Reports. *Exhibit J*, p. 1. She noted that she had not yet received any progress reports for the year. *Id.* In response, Principal provided notice of the March MDR, a record of Student’s disciplinary incidents, attendance records, a copy of Student’s IEP and a copy of the procedural safeguards and offered to talk at the meeting about any additional records Parent wanted. *Id.*
53. A field trip was scheduled for March 10, so Case Manager and Student’s core subject teachers were unavailable to participate in the March MDR. *Interviews with Parent and Case Manager*. Parents, Advocate 2, Director, Principal, Art Teacher and Student’s sixth-grade English Teacher who is a special education teacher (“Special Education Teacher”) attended the March MDR. *Exhibit D*, p. 13; *Interviews with Parent and Case Manager*. Case Manager attended the final 10 to 15 minutes of the meeting. *Id.* Director told the SCO, incorrectly, that a school psychologist and Advocate 1 were present at the meeting. *Interview with Director*.
54. Director, who was not present at the Eligibility Meeting, drafted the March MDR record and led the meeting. *Interviews with Parent and Director*. According to the record, a “functional behavioral assessment was not completed prior to the date of this incident.” *Exhibit D*, p. 10. Director told the SCO this was a clerical error and that she checked that there had not been an FBA because there was not an FBA right before or in connection to the incident. *Interview with Director*.
55. As a hypothesis for the behavior, the MDR determined:

[Student] is an engaged and respectful student. Currently he has very good grades and all assignments turned in. He has had a few incidents this year that do not indicate a pattern of behavior, but has tended to be done in front of a *[sic]* audience or to go along with a peer. Social and peer influence may be a very strong motivator for [Student]. *Exhibit D*, p. 10.

56. The MDR notes that Parents provided a statement to be included with the March MDR and asked for additional evaluations to be completed. *Id.* at p. 11. No such statement was provided by District in response to this Complaint. *See Exhibit D.*
57. Parents voiced that the behavior was impulsive and related to Student's OHI. *Id.* at p. 11; *Interview with Parent.* Principal disagreed and told the Parents "just because your kid has an IEP, it does not mean he is not going to be disciplined." *Interview with Parent.* Other attendees did not voice an opinion or disagree with Principal. *Id.* Director told the SCO, while talking about harassment on the basis of race or gender, while behavior may be unexpected, Student "needs to know or understand the right from wrong." *Interview with Director.*
58. Principal argued that the behavior was not impulsive because there were many steps in the process of making and posting the video where the boys could have stopped. *Interviews with Parent and Director.*
59. Director recalls reviewing Student's IEP services and teacher observations and determining that while Student has executive functioning needs, this behavior was not impulsive and is "not the type of impulsivity we see in the classroom," where Student blurts out but does not display impulsive actions. *Interview with Director.*
60. District provided a copy of a chart comparing the eligibility criteria for Significant Identifiable Emotional Disability and Serious Emotional Disability that District uses "in conjunction with previous evaluation information when looking at behaviors as it relates to disability and manifestations." *Response*, p. 2; *Exhibit D*, p. 52. There is no reference to this document or its contents in the notes from the MDR and no participants mentioned relying on this distinction. *See Exhibit D*, pp. 10-17.
61. Ultimately, the MDR determined that the behavior was not a manifestation of Student's disability because in the school setting, Student's OHI "looks like difficulty initiating tasks, especially around unpreferred tasks, and other executive functioning skills." *Exhibit D*, p. 11. The MDR also determined it was not a result of a failure to implement the IEP because it was being implemented and Student "has been making progress towards goals which will be reported to parents at the end of quarter 3." *Id.*
62. School agreed to send Parents a Consent for re-evaluation in response to Parents' request to conduct further evaluations to consider Student's social emotional needs. *Id.* at p. 12.

Although the behavior was determined not to be a manifestation of Student's disability, he was returned to his placement at School. *Id.*

63. According to the embedded PWN, "impulse control is not something that is seen in the classroom related to his learning." *Exhibit D*, p. 12. In addition, the MDR "discussed that there are intentional steps to posting items on social media." *Id.* Parents indicated that Student's December IEP did not adequately address Student's needs related to dyslexia, impulsivity and social emotional concerns. *Id.* The MDR Team did not engage in a discussion of Student's goal around unexpected behaviors as part of their discussion. *Id.*

F. March 2022 Progress Report

64. District does not have any written guidance or procedures regarding the delivery of progress reports to parents. *Interview with Executive Director*. Progress Reports in District are generally sent to parents by case managers anytime report cards are sent home. *Interview with Coordinator*. Case Manager generally sends progress reports to parents via email. *Interview with Case Manager*.
65. As of March 27, 2022, Student had made insufficient progress on his unexpected behaviors goal. *Exhibit F*, p. 2. Throughout third quarter, Student had several "smaller scale unexpected behaviors" like leaving class, using inappropriate language and bringing a balloon into class." *Id.* He had also engaged in three larger behaviors that required administrative involvement, including stealing from a prize cart and asking another student inappropriate questions. *Id.* Parents were not aware of any of these smaller scale behaviors at the time of the March MDR. *Interview with Parent*. Only one incident, stealing from the prize cart, was considered during the March MDR. *See Exhibit D*, pp. 10-13.
66. Parent did not receive the third quarter Progress Report until District submitted the response to this Complaint on May 3, 2022. *Exhibit 4*, p. 8; *Interview with Parent*. Executive Director indicated that Case Manager should have sent the progress report at the end of the quarter. *Interview with Executive Director*. Case Manager did not send the March 27 Progress Report to Parent but thought someone else had. *Interview with Case Manager*.

G. First IEP Team Meeting Request

67. District does not offer staff training, written guidance, or procedures on responding to parental requests for IEP team meetings. *Interview with Executive Director*. District indicates it is not best practice to hold an IEP team meeting while an IEE is pending because changes made to the IEP might conflict with the outcome of the IEE, which would "be confusing for kids." *Id.*
68. In early March, concerned that District was not doing enough to address Student's ADHD needs, Parent paid to have Advocate 1 conduct an additional evaluation. *Interview with*

Parent. Advocate 1 administered the Behavior Rating Inventory of Executive Functioning (“BRIEF”) because it offers the best pragmatic advice about how to support a student’s executive functioning needs. *Interview with Advocate 1.* Based on the results of the BRIEF, Parents implemented some strategies at home, including a visual schedule, which have helped Student. *Interviews with Parent and Advocate 1.*

69. On March 17, 2022, Principal had advised Student not to ask questions about sexual identity and to refrain “from any kind of language or actions that would potentially make people feel uncomfortable or unwelcomed at school.” *Exhibit J*, p. 28. Student was advised to stay away from a student he had been asking about and was to begin working with School Guidance Counselor, not a special education professional, about “the importance of not asking people questions about their identity.” *Id.* at p. 16. Guidance Counselor met with Student three times in 2022, including a conversation on April 4, 2022 that covered bullying, among other topics. *Exhibit B*, p. 1. No corresponding behavior incident is included in Student’s Behavior Detail Report. *See Exhibit H*, pp. 1-2.
70. On March 18, 2022, Parent again requested social emotional testing to address Student’s behavior at School. *Exhibit A*, p. 58. Parent further requested that the IEP team consider what additional “accommodations and services need to be added to the IEP to address the behaviors now.” *Id.* She provided three dates, ten days out, when Parents would be available to meet with the IEP team. *Id.* Parent intended to share the BRIEF evaluation with the IEP team at the meeting she was requesting. *Interview with Parent.*
71. Director responded with an offer to help Parent complete paperwork to move the IEE process forward after spring break. *Id.* No one responded to Parent’s request for an IEP team meeting. *Interview with Parent.* Parent completed the IEE paperwork March 30, 2022. *Exhibit J*, p. 11.
72. District admits to not scheduling an IEP team meeting. *Response*, p. 1. District found it “difficult to understand the purpose of [P]arent’s request,” because Parent did not respond to the request “to walk through the IEE process as well as the IEP meeting request.” *Id.* Director’s email did not ask to talk about Parent’s IEP team meeting request. *See Exhibit A*, p. 58. District also indicated another meeting would violate its obligation under 34 C.F.R. § 300.324(a)(5) to “encourage the consolidation of reevaluation meetings for the child and other IEP team meetings” since the team had met three months prior to review the re-evaluation and eight days prior for an MDR. *Response*, p. 1.

H. April MDR

73. On April 13, 2022, Student sent an email to numerous district administrators asking for help getting a teacher at School (“Social Studies Teacher”) to stop harassing and demeaning students. *Exhibit J*, p. 29; *Exhibit 11*, p. 17; *Interview with Parent.* On April 14, 2022, Parents met with Principal regarding the email. *Exhibit 3*, p. 8; *Interview with Parent.* School agreed to investigate Student’s concerns about Social Studies Teacher. *Exhibit J*, p. 30.

74. As Parents were leaving the meeting, Principal told the family that School was also investigating an allegation that Student had called a peer a lesbian. *Interview with Parent*. During the meeting, Student denied calling the peer a “boy” or a “lesbian” but admitted to jokingly pushing her. *Exhibit J*, pp. 29-30.
75. School completed investigations into both incidents on April 19, 2022. *Id.* at p. 29. School concluded that Student’s allegations against Social Studies Teacher were unsubstantiated, but that Student struggles to use an iPad appropriately during class and “needs frequent reminders to follow classroom procedures and policies.” *Id.* at p. 28.
76. School further concluded that Student called the peer “a boy and a lesbian, as well as pushed her into the threshold of the bathroom.” *Id.* As a result, Principal imposed a one-day OSS on April 22, 2022. *Id.* At 2:39 p.m. on April 21, 2022, School asked to arrange an MDR for the following week. *Id.* at p. 27.
77. When Parent had not responded by 7:40 a.m. on Friday, April 22, 2022, School scheduled the MDR for Monday morning. *Id.* at pp. 26-27. That same day, Parent asked that Director, as well as Case Manager and a school psychologist, be present at the MDR. *Id.* at p. 26. She reiterated her unanswered request for an IEP team meeting and an FBA, as Student continued to get in trouble nearly every week. *Id.* Parent also asked how School was teaching Student to “refrain from any kind of language or actions that would potentially make people feel uncomfortable or unwelcomed at school.” *Id.*
78. The MDR (“April MDR”) was held on April 25, 2022, although the paperwork is dated April 21, 2022. *See Exhibit D*, p. 14; *Interview with Coordinator*. Parents, Principal, Coordinator, Case Manager, and a School Psychologist from the high school attended in person while Advocate 1 participated virtually. *Interviews with Parent, Case Manager and Coordinator*. Coordinator led the meeting and drafted the paperwork. *Interview with Coordinator*. The School Psychologist did not participate in the conversation. *Interviews with Parent, Advocate 1 and Case Manager*.
79. The meeting was contentious. *Interview with Coordinator*. Parents came in angry and wanted to introduce witness statements. *Id.* Coordinator was flustered. *Interviews with Parent and Coordinator*. Coordinator struggled to redirect the conversation to the questions on the MDR form. *Interview with Coordinator*. Coordinator asked District staff to answer the questions and did not invite input from Parents or Advocate 1. *Interviews with Parent and Advocate 1*.
80. The April MDR resulted because Student “has been calling a female student a boy and a lesbian. He also pushed her into the bathroom. [Student] had previously been spoken to (on March 17) about not asking questions or making comments about people’s identity.” *Exhibit D*, p. 14. Case Manager and Coordinator told the SCO that Student pushed the same peer he asked inappropriate questions about. *Interviews with Case Manager and Coordinator*. Parent

told the SCO that the peer Student pushed was not the classmate about whom he asked inappropriate questions. *Interview with Parent*. The SCO finds that, based on the evidence reviewed, the classmate Student was told to stay away from in March is not the same peer involved in the April incident. *Compare Exhibit 7*, p. 20 and *Exhibit J*, p. 29.

81. The April MDR concluded that an FBA had been conducted on November 1, 2021. *Exhibit D*, p. 14. No context or antecedent for the incident was discussed during the April MDR. *Id.* A description of the incident, including who, what, when and where is not included. *Id.* It is hypothesized that Student acted to “gain power and attention from the other student,” with no further discussion. *Id.* The discussion did not consider Student’s unexpected behaviors goal. *Id.* at pp. 14-17.
82. The MDR notes that Parents provided a statement to be included in the file. *Id.* This is the exact same sentence that was included in the March MDR. *See Exhibit D*, p. 11. No such statement was submitted in Response to this Complaint. *See Exhibit D*. Parents asked for changes to Student’s IEP and asked “what the school plan is for [Student] to be successful in school.” *Id.* at p. 15. Parents also repeated their request for additional social emotional testing. *Id.* at pp. 12, 16. The MDR record includes Case Manager’s observation that Student struggles to generalize skills regarding behavior to social contexts, although he usually behaves appropriately in class. *Exhibit D*, p. 15.
83. During the meeting, Parents reiterated their request for an IEP team meeting and an FBA. *Interviews with Parent and Advocate 1*. It was Parent’s understanding that Student was failing several classes at the time. *Interview with Parent*. An IEE was also underway, which would be used to update Student’s IEP once it was completed. *Exhibit D*, p. 16. Coordinator told Parents that when an IEE is underway, the current IEP “stays put” and District will not hold an IEP team meeting because it does not have any data to make changes. *Interview with Coordinator*. Advocate 1 asked if they could withdraw the request for an IEE to get an IEP team meeting to address their concerns now and was told no. *Exhibit D*, p. 16; *Interviews with Parent and Advocate 1*.
84. The April MDR concluded that the behavior was not a manifestation using the exact language from the March MDR. *Id.* The only change was the addition of “with regard to impulsivity and inhibition” to explain why Parents thought the incidents were impulsive. *Id.* District staff at the April MDR concluded the behavior was not a manifestation because there were many moments where Student could have stopped and redirected himself, and Student exhibited a continuing pattern of targeting a specific protected class. *Interviews with Case Manager and Coordinator*. Nevertheless, Student was returned to his placement at School with the services as outlined in the December IEP. *Exhibit D*, p. 16.
85. The April MDR also concluded that the behavior was not a result of a failure to implement the IEP using almost identical language to the March MDR, with dates and tenses updated, along with the status of the consent for reevaluation, but not the IEE. *Id.* at pp. 11, 16.

86. The PWN copied and pasted language about other options considered from the March MDR, with no additional information. *Id.*

I. Additional Requests for an IEP Meeting

87. Immediately after the April MDR, District sent parents a standalone PWN responding to their request for an IEP team meeting. *Exhibit C*, p. 5. The PWN reiterated that the two MDRs found that Student's behavior was not a manifestation of his disability because Student's OHI impacted task initiation and other executive functioning skills in the school setting while Parents indicated Student's disability impacted Student's impulsivity and inhibition. *Id.* The PWN refused Parents' request for an IEP team meeting because an IEE was underway and "the school team does not have sufficient data to support the addition of goals and will update any necessary information once the IEE is completed." *Id.*

88. That same day, Coordinator also sent Parent a consent for evaluation for the social emotional testing she requested. *Exhibit J*, p. 25. Parent responded a few hours later, asking for clarification on where to sign the consent form. *Exhibit 9*, p. 2. Parent's email also summarized concerns and questions from the April MDR. *Id.* Three days later, Coordinator confirmed receipt of, but did not respond to or disagree with the substance of, the email. *Id.* at 1.

89. In response to the PWN, on April 26, 2022, Parent sent an email to Coordinator, Principal, Case Manager and Director asking for written clarification on why she could not have an IEP team meeting after initiating an IEE or where she was warned that consenting to an IEE would impact her ability to request an IEP team meeting. *Exhibit 11*, p. 21. Parent also provided District with a copy of the privately obtained BRIEF evaluation and requested an IEP team meeting to develop goals to help Student "learn how to curb his impulsivity." *Id.* at pp. 22-23. She reiterated her request that Student's behaviors be evaluated so that the IEP could be modified to address the behaviors that were impacting his access to a FAPE. *Id.* at p. 23. District did not respond to Parent's email. *See Exhibit 11 and Exhibit J.*

90. Throughout April and May, Parent was called at least once a week about new behavior concerns as Student continued to struggle, for example disrupting standardized testing and throwing food in the lunch room. *Interview with Parent.* As a result of increased monitoring in the hallways and frequent discipline, Student's sense of self diminished, he felt targeted and he felt School staff were not taking his perspective into consideration. *Exhibit 11*, p. 23.

91. Parent again emailed Coordinator, Principal, Case Manager and Director on May 5 reiterating her request for an IEP team meeting to draft appropriate goals and reminding District of the BRIEF evaluation she had included in her prior email. *Id.* at p. 25. Again, District did not respond to Parent's email. *See Exhibit 11 and Exhibit J.*

92. Parent followed up with Coordinator on May 11, 2022, again reiterating her request for an IEP team meeting and clarification on where it says an IEP team meeting cannot be held once an IEE is requested. *Exhibit 9*, p. 1. On May 13, 2022, still waiting for a response from Coordinator, Parent followed up with Coordinator, Executive Director, Director and Case Manager. *Id.* at p. 5. She again asked why an IEP meeting could not be held and asked that an FBA be conducted by a BCBA or school psychologist “with a focus on his behavior during unstructured social times, transitions, lunch, recess,” etc. *Id.* She also asked for the IEP team to meet to consider the BRIEF conducted by a licensed school psychologist. *Id.*
93. On May 14, 2022, Executive Director finally responded to Parent. *Id.* at 14. She told Parent that during the April MDR, Coordinator was responding to Parent’s request for a “behavior plan meeting” by explaining that District’s FBA concluded that a BIP was not necessary and that they did not have to conduct an FBA because Student’s behavior was found not to be a manifestation of his disability. *Id.* She also asked for the information for the person who conducted the BRIEF. *Id.* She repeatedly referred Parent to the Response to this Complaint and said Parent had not responded to District’s request to have a meeting in March to talk about “the differences between the IEE and the IEP process.” *Id.*
94. She told Parent that District could meet the week of May 23, 2022, but did not understand why they should because they did not have data or evidence to write new goals or create an FBA or BIP. *Id.* at p. 15. Executive Director informed Parent that District had “added line of sight, time with a school counselor and alternate passing periods as support for [Student] outside of the IEP process.” *Id.* at p. 14. Parent was not aware of these changes. *Interview with Parent.* The school counselor met with Student three times during the year and noted that Student felt like he had “a target on him and ke[pt] getting in trouble.” *Exhibit B*, p. 1.
95. Parent responded on May 15, 2022, clarifying that she was requesting an IEP team meeting, not a behavior plan meeting, and that District offered to help with the IEE paperwork in March but never asked to meet about the differences between the IEE and IEP processes. *Exhibit 9*, pp. 11-13. Parent requested 25 hours each of math and writing tutoring and 60 hours of private counseling to process Student’s feelings about his “continued persecution” in the school environment. *Id.* at p. 13. Parent promised to get back to the team with a time for an IEP team meeting. *Id.* at p. 14.
96. On May 19, 2022, Parent suggested holding an IEP meeting on May 23, 2022, at 3:30 p.m. and asked that the School Psychologist who evaluated Student participate in the meeting. *Id.* at p. 10. On May 20, 2022, District informed Parent that they were unavailable at that time and asked for Parent’s availability Tuesday through Friday. *Id.* Executive Director explained that they wanted to consider the IEE at the meeting as it was expected to be completed on May 20, 2022. *Id.* Parent said the next availability was June 30 or 31. *Id.* Parent also reiterated her March 9, 2022 request for records, including progress reports, and requested additional records. *Id.*

97. Ultimately, no IEP meeting was held before the end of the 2021-2022 school year. *Interviews with Parent and Case Manager*. An IEP meeting is currently scheduled for August 8, 2022 to discuss the IEE received by Parents and District on May 23, 2022. *Interview with Director*.
98. The IEE included a Behavior Assessment System for Children – Third Edition (“BASC”), with ratings completed by Student, Parent, Case Manager, Social Studies Teacher and one other teacher. *Exhibit 9*, pp. 42-45. Student feels teachers do not trust him and that others are against him at rates much higher than similar peers. *Id.* at p. 43. He also identified at-risk levels of concern on ratings of anxiety, locus of control and self-esteem reporting that he often worries, feels stressed and does not feel good about himself, and says “he believes things go wrong for him even when he tries.” *Id.* The IEE recommends that Student receive individual counseling services to help him process situations that cause distress and “better monitor and manage his behaviors.” *Id.* at p. 48.
99. Student’s May 27, 2022 Progress Report was sent to Parent on June 18, 2022. *Exhibit 11*, p. 27. At that time, Student was making progress on task initiation, including a noticeable improvement during the final three to four weeks of the quarter. *Id.* at p. 28. Student also allegedly made progress on his writing goal, although no scores on grade level rubrics (the intended metric) are reported. *Id.* Student’s unexpected behaviors “declined over the course if [sic] the last few weeks with additional supports put into place.” *Id.* at p. 29. In addition to the supports Executive Director told the Parent that School had implemented outside the IEP process, Case Manager was providing direct services to Student inside his social studies class every day for the final month of school. *Interview with Case Manager*.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: The District failed to conduct a comprehensive evaluation of Student between October 13, 2021 and present, in violation of 34 C.F.R. § 300.304(c)(4). This violation resulted in a denial of FAPE.

Parent’s concern is the comprehensiveness of The Evaluation. Parent alleges that District failed to fully evaluate Student’s academic needs and auditory processing concerns, as well as social emotional needs that were contributing to behavior problems in school.

The IDEA requires an evaluation to assess students “in all areas related to the suspected disability.” 34 C.F.R. § 300.304(c)(4). Evaluations must be sufficiently comprehensive to identify all of the child’s special education needs, whether or not commonly linked to the disability category with which the child has been identified. 34 C.F.R. § 300.304(c)(6). The evaluation also must gather all relevant information that may assist in determining “the content of the child’s IEP, including information related to enabling the child to be involved in and progress in the general education curriculum.” 34 C.F.R. § 300.304(b)(1)(ii).

Prior to The Evaluation, Parent noted concerns with dyslexia, ADHD including impulsivity and other areas of executive functioning, language processing and auditory processing. (FF # 10.) When Student entered District, he was eligible as a Student with a SLD with needs in reading, writing and math. (FF # 4.) District and Parents agreed to assess in the areas of cognitive, academic, communicative, and social emotional functioning. (FF # 11.)

A. Evaluation of Academic Functioning

District conducted formal academic testing, reviewing standardized testing and solicited feedback from classroom teachers. (FF # 13.) Although Student's reading was noted to be very slow, no formal testing of Student's fluency was conducted. (FF #s 14 and 17.) When evaluating Student, Instructional Coach 1 was not aware of concerns about dyslexia and did not conduct the relevant subtests to evaluate that need. (FF # 14.) Based on additional testing during the IEE, Student was diagnosed with Dyslexia. (FF # 3.) For these reasons, the SCO finds and concludes that District's evaluation of Student's reading abilities was not sufficiently comprehensive to assist in determining Student's need for services or accommodations in reading, in violation of 34 C.F.R. § 300.304.

B. Evaluation of Communicative Status

SLP evaluated Student's expressive and receptive language and language processing and identified no concerns in this area. (FF # 19.) Schools cannot conduct auditory processing evaluations, but nothing in SLP's testing pointed to concerns in this area. (FF #s 11 and 19.) Parent is concerned that SLP did not conduct additional testing to investigate low scores on two subtests. (FF # 20.) SLP did not feel additional testing was warranted as Student had performed adequately on other subtests that assessed the same skills. (FF # 19.) For these reasons, the SCO, in consultation with CDE Content Specialist, finds and concludes that District's evaluation of Student's communication needs was sufficiently comprehensive, consistent with 34 C.F.R. § 300.304.

C. Evaluation of Social Emotional Functioning

District's assessment of Student's Social Emotional Functioning consisted of administering the Connors and conducting classroom observations. (FF #s 21-23.) Student was having large and small behavior incidents at school and testing revealed concerns with inattention, impulsivity, executive functioning and defiance/aggression at home and at school. (FF #s 9 and 21-22.) Based on the identified concerns, the SCO, in consultation with the CDE Content Specialist, finds that District should have conducted additional testing, such as a BASC, structured observations or observations of unstructured settings.

District relied on Instructional Coach 2's FBA to determine that no BIP was warranted. (FF # 23.) An FBA is meant to gather information about academic, social or emotional behaviors of concern,

including when, where and with whom the behavior occurs and what factors make the behavior worse or more likely to occur. See CDE, *Functional Behavioral Assessment (FBA) and Behavior Intervention Plans (BIP)* at pp. 1-2 (August 2017), available at https://www.cde.state.co.us/cdesped/ta_fba-bip (providing a description of the purpose of FBAs as well as the common types). A brief FBA involves interviews with staff or parents who have observed challenging behavior, while a more common full FBA “involves short and extended interviews, a record review, and direct observations of the challenging behavior.” *Id.*

Although Student’s two discipline referrals related to behavior that occurred outside of structured class time, the FBA did not include any observations of unstructured time. (FF # 23.) Instructional Coach 2 also did not speak to Parents or teachers about Student’s challenging behaviors. (FF # 24.)

Because District failed to adequately assess Student’s behavior needs, the SCO, in consultation with CDE Content Specialist, finds and concludes that District’s evaluation of Student’s social emotional needs was not sufficiently comprehensive, in violation of 34 C.F.R. § 300.304.

D. Procedural Violation

Procedural violations of IDEA are only actionable to the extent that they impede the child’s right to a FAPE, significantly impede the parents’ opportunity to participate in the decision-making process regarding the provision of a 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).

In terms of academic functioning, although District did not adequately assess Student’s reading abilities, Student participates in a co-taught ELA class and has several accommodations to address concerns with reading. (FF #s 36 and 38.) With these supports, Student’s reading was not negatively impacting him in the classroom. (FF # 18.) The IEE has also provided District with additional information about Student’s reading needs, for consideration moving forward. (FF # 3.) Therefore, the failure to evaluate Student’s reading abilities did not result in a denial of FAPE. However, the SCO reaches a different conclusion with respect to the evaluation of Student’s social emotional functioning.

Without a comprehensive evaluation of Student’s social emotional functioning, District did not develop an IEP that was tailored to meet Student’s individual social emotional needs. Student did not make adequate progress on his behavior goal and continued to struggle with behaviors inside and outside the classroom and served an additional five days of OSS, resulting in a denial of FAPE. (FF #s 48, 50, 65, 69, and 73-76.) District did provide interventions outside of the IEP process, including time with a guidance counselor, supervision during passing periods and additional push-in support from Case Manager. (FF #s 94 and 99.) With this additional support, Student began making progress on his behavior goal in the fourth quarter. (FF # 99.) While these supports outside the IEP process mitigated some of the damage caused by the inappropriate evaluation, the failure to adequately assess and address Student’s needs caused him to feel anxious and

targeted in addition to not making appropriate progress. (FF #s 94 and 98.) In addition, because this support was provided outside of the IEP process, Parents were denied the opportunity to meaningfully participate in the decision-making process, and often they were not aware what supports were being provided until after the fact. (FF # 94).

The SCO finds and concludes that because Student did not make adequate progress on his behavior goal and was removed from the educational setting due to ongoing behaviors, and because Parent's opportunity to participate in the decision-making process was significantly impeded, the failure to evaluate Student's social emotional functioning resulted in a denial of FAPE. To remedy this violation, District must conduct comprehensive testing of Student's social emotional functioning and provide the compensatory services described below.

Conclusion to Allegation No. 2: The District failed to develop, review and revise an IEP that was tailored to meet Student's individualized needs, from August of 2021 to present, 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 by failing to consider the results of the recent evaluation, failing to develop goals to address Student's needs in math, literacy and social emotional functioning and, failing to include behavioral strategies and supports that adequately addressed Student's behavioral needs.

The 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. *Andrew 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.

A. Development of the December IEP

An IEP is "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 *Bd. Of Educ. V. Rowley*, 458 U.S. 176, 181 (1982)). In developing an IEP, the IEP Team must consider the strengths of the child, the parent's concerns, evaluation results, and "the academic, developmental, and functional needs of the child." 34 C.F.R. § 300.324(a). Along with a statement of the special education and related services to be provided to the student, an IEP must include measurable goals designed to "[m]eet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general

education curriculum” and any other educational needs that result from the child’s disability. 34 C.F.R. § 300.320(a)(2). The IEP must also include supplementary aids and services that will be provided to allow the child to (1) attain the annual goals, (2) be involved and make progress in the general education curriculum and (3) participate in nonacademic activities. 34 C.F.R. § 300.320(a)(4).

For a student whose behavior impedes their learning, the IEP must, among other things, also “consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.” 34 C.F.R. § 300.324(a)(2). As contemplated by 34 C.F.R. § 300.324(a)(2), this includes where the consequences of a child’s behavior, including “violations of a school’s code of student conduct, classroom disruptions, disciplinary removals, and other exclusionary disciplinary measures,” impede the child’s learning. *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions*, 122 LRP 24161 (OSERS 07/19/22).

Here, School began developing Student’s December IEP at a properly constituted IEP team meeting on December 6, 2021. (FF # 33.) The December IEP contains measurable annual goals to address Student’s academic and functional needs and a statement of the services to be provided. (FF #s 35 and 37.) It also includes a statement that Student does not exhibit behavior that requires a BIP. (FF # 34.)

However, a properly constituted IEP team must, at a minimum, include parents, at least one general education teacher of the child, at least one special education teacher or provider of the child, a representative of District and an “individual who can interpret the instructional implications of evaluation results.” 34 C.F.R. §300.321(a). Although there was a properly constituted IEP team at the December meeting, Student’s goals were written outside of that meeting, with the input of just Parent and Case Manager. (FF # 42.) As such, no general education teacher, District representative or mental health professional capable of interpreting the test results was present and Student’s IEP goals were not written by a properly constituted IEP team. Thus, the SCO concludes that the development process for the December IEP did not comply with IDEA’s procedures. *Rowley*, 458 U.S. at 206. Next, we turn to the second question of whether the annual goals, services and behavioral supports and strategies were substantively appropriate. *Rowley*, 458 U.S. at 207.

B. Academic Needs

Parent alleges that the IEP team failed to consider the results of The Evaluation in developing the December IEP and that the December IEP did not include goals or services to adequately address Student’s needs in math and literacy. The SCO agrees.

First, The Evaluation was not sufficiently comprehensive to identify Student’s needs with respect to reading, so the IEP team could not appropriately consider the goals, services or supports necessary to address Student’s needs related to reading. Despite the inadequate evaluation,

Student participates in a co-taught ELA class and has several accommodations to address concerns with reading. (FF #s 36 and 38.) With these supports, Student's reading was not negatively impacting him in the classroom. (FF # 18.)

Second, the December IEP does not appropriately consider or address Student's identified math needs. Student performed poorly on math calculation on the KTEA and was two or more grade levels behind on the iReady standardized math testing (FF # 15.) This is significantly below the potential reflected in his cognitive testing. (FF # 12.) With appropriate supports and services, Student should be able to perform at grade level. Student was unable to complete multiplication and division problems because he relies on a calculator. (FF #s 15-16.) The IEP team determined that Student did not require math services because accommodations, including use of a calculator, were allowing him to make appropriate progress in his general education class. (FF #s 16 and 40.) However, Case Manager was in fact providing support for math outside the general education classroom and the IEP accommodations do not allow for the use of a calculator that everyone agreed Student required. (FF # 40.) The SCO, in consultation with CDE Content Specialist, also wonders whether Student's reliance on a calculator for simple computation is further indication that Student requires direct instruction to improve his basic math skills.

Third, although Student continued to be eligible as a student with a SLD in written expression, no academic needs are captured in the SNID statement. (FF # 34.) Fourth, the December IEP also did not include sufficient services to support Student's goals. Even though Student continued to have three goals, the December IEP cut nearly one third of Student's service minutes. (FF # 37.) Finally, the December IEP failed to adequately reflect the services Student was actually receiving, a co-taught ELA class, push-in support in science and social studies and 225 MPW in Academic Lab with case manager. (FF # 38.)

For all these reasons, the SCO finds and concludes that the December IEP was not reasonably calculated to enable Student to receive an educational benefit and that it thus violated the IDEA's substantive requirements related to the development of an IEP at 34 C.F.R. § 300.320(a)(4), resulting in a denial of FAPE. *See D.S. v. Bayonne Bd. of Ed.*, 602 F.3d 553, 565 (3d. Cir. 2010) (finding that the content of an IEP relates to its substance, not to the IDEA's procedural requirements). Ordinarily the SCO would order District to convene and IEP team meeting to remedy these deficiencies. However, the IEP team is already meeting August 8, 2022 to consider the outcome of the IEE. (FF # 97.) At that meeting, the IEP team must also consider whether the supports and services Student is currently receiving outside of the IEP are necessary for Student to receive a FAPE.

C. Behavior Needs

Parent alleges that the December IEP failed to include goals to address Student's social emotional needs and failed include behavioral strategies and supports that adequately addressed Student's behavioral needs. The SCO agrees.

First, District's evaluation was not sufficiently comprehensive to identify all of Student's social emotional needs, which makes it hard to assess whether the December IEP adequately met those needs. The Evaluation identified significant needs related to impulsivity, inattention, executive functioning, and defiance/aggression. (FF #s 21-23.) Despite knowledge of these needs, the December IEP did not include any additional service minutes to address these needs or the new behavior goal. (FF # 37.) Second, the December IEP included only one new accommodation: "chunking assignments to complete in stages." (FF # 36.) No other accommodations were added to address impulsivity, inattention, other areas of executive functioning or defiance/aggression. (FF # 36.) Finally, the IEP team did not consider any other positive behavioral interventions or supports to address Student's impulsivity or inattention. (FF #s 33-41.) As a result, Student continued to have large- and small-scale behavior incidents at School, some of which resulted in disciplinary removal from his educational environment. (FF #s 48, 65, 69, 75-76, 90 and 99.) Student also now feels anxious and targeted at School. (FF #s 90, 94 and 98.)

Although Student made progress on his behavior goal in the fourth quarter and in the general education curriculum, School was providing significant supports outside of the IEP process. (FF #s 94 and 99.) Student had supervision in the hallways and alternate passing periods and was meeting with a guidance counselor. (FF # 94.) Case Manager was also providing additional support inside one general education classroom five days a week for a month. (FF # 99.) By addressing these behaviors outside of the IEP process, District denied Parent meaningful participation in the decision-making process regarding Student's IEP.

For these reasons, the SCO, in consultation with CDE Content Specialist, finds and concludes that the December IEP violated the IDEA's substantive requirements, as it was not reasonably calculated to address his behavior and enable Student to make progress, in violation of 34 C.F.R. §§ 300.320(a)(2) and 300.324(a)(2), resulting in a denial of FAPE. To remedy this violation, District must convene an IEP team meeting to consider the results of the evaluation ordered in response to allegation one and provide the compensatory services described below.

Conclusion to Allegation No. 3: The District failed to provide Parent with quarterly progress reports in violation of 34 C.F.R. § 300.320(a)(3). The violation resulted in a denial of FAPE.

Parent's concern is that District did not provide periodic reports of Student's progress between August 2021 and present. IEPs must include a description of how a child's progress towards their annual goals will be measured and school districts must provide periodic reports on the progress a student is making toward the student's annual goals. 34 C.F.R. § 300.320(a)(3).

Here, the February IEP states that quarterly progress reports will be sent home to Parents. (FF # 25.) Student's progress on the goals in the February IEP was recorded on October 18, 2021 but was not provided to Parents until six weeks later, when they received The Evaluation on November 28, 2021. (FF #s 25-29.) These progress reports are very brief and not consistent with the plan for measurement laid out in the February IEP. (*Id.*) Parents never received a second quarter progress report consistent with the February IEP. (FF # 25.)

The December IEP provides for quarterly progress reports to be emailed to Parents. (FF # 35.) Parent did not receive a second quarter progress report because the December IEP was brand new. (FF # 25.) Student's third quarter progress was measured on March 27, 2022. (FF # 65.) Although requested, the progress report was not provided to Parent until May 3, 2022, when District responded to this Complaint. (FF #s 52 and 66). This progress report contained information about Student's ongoing behavior challenges that had not previously been shared with Parents. (FF # 65.) Student's fourth quarter progress was measured on May 27, 2022 but was not provided to Parent until June 18, 2022, after Parent requested it. (FF 99). Accordingly, the SCO finds and concludes that District violated 34 C.F.R. § 300.320(a)(3).

The United States Supreme Court has stressed the importance of complying with the IDEA's procedural requirements. *Bd. Of Educ. V. Rowley*, 458 U.S. 176, 205-06 (1982). However, procedural violations of IDEA are only actionable to the extent that they impede the child's right to a FAPE, significantly impede the parents' opportunity to participate in the decision-making process regarding the provision of a 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, Parents were provided with Student's first quarter progress before the Eligibility Meeting, not at the end of the first quarter. (FF #s 25-29.) They also were not provided with information consistent with how the goals were meant to be measured or an update on Student's current progress at the time of the Eligibility Meeting. (FF #s 25-28.) The absence of this information impeded Parents' participation in the decision-making process at the December eligibility determination and IEP team meeting.

At a time when Parent was advocating for additional social emotional services and participating in MDRs, she was not provided with another update on Student's progress for over five months. (FF # 66.) This progress report contained otherwise unknown information about Student's ongoing behavior challenges at school. (FF # 65.) The failure to provide Parent with timely progress reports significantly impeded her ability to participate in the decision-making process regarding the provision of a FAPE throughout the second semester. As such, the SCO finds and concludes that this procedural violation did result in a denial of FAPE. To remedy this violation, in addition to the compensatory services outlined below, the SCO will order additional remedies focused on preventing the recurrence of similar situations in the future.

Conclusion to Allegation No. 4: The District improperly determined that Student's behavior was not a manifestation of his disability at the March and April MDRs, in violation of 34 C.F.R. § 300.530(e). The violation resulted in a denial of FAPE.

Parent's concern is that District improperly determined that Student's behavior was not a manifestation of his disability at the March and April MDRs.

A. IDEA's Disciplinary Protections for Students with Disabilities

"The IDEA includes extensive provisions governing the discipline of children with disabilities. The regulations are premised on the principle that children should not be penalized for conduct that is the result of a disability." CDE, *Guidance Memorandum*, at 1, (March 19, 2012) available at: http://www.cde.state.co.us/sites/default/files/documents/cdesped/download/pdf/guidance_disciplineofchildren.pdf; see also 71 Fed. Reg. 46720 (Aug. 14, 2006) (providing that "a child with a disability may display disruptive behaviors characteristic of the child's disability and . . . should not be punished for behaviors that are a result of the child's disability").

Implicit in IDEA's disciplinary provisions is a "principle that disfavors [using] discipline to make changes in the educational placement of a child with a disability. Rather, where a child with a disability has issues with behavior or self-control, [IDEA] shows a preference for dealing with those issues via the IEP process rather than via the disciplinary process." *Id.* Accordingly, for a student with a disability, the IDEA requires school districts to "take a careful look at any possible relationship between the misconduct in question and the child's disability (or disabilities), and to proceed cautiously with disciplinary action." *Id.*

B. March MDR

Notice of Meeting

Parents have a right, under the IDEA, to invite additional participants to an MDR. 34 C.F.R. § 300.530(e)(1). This right necessitates that school districts notify parents early enough to ensure that parents and their invited attendees have an opportunity to participate. *Id.*; 34 C.F.R. § 300.322(a)(1). Failing to adequately inform parents of an MDR may result in a violation of the IDEA. See *CDE 2019:563; Cherry Creek Sch. Dist. #5*, 56 IDELR 149 (SEA CO 01/24/11).

Here, District determined that Student's third suspension constituted a change of placement on March 8, 2022 and sought to convene an MDR as soon as possible. (FF #s 49-50.) District proposed meeting on March 10, 2022, in conjunction with Student's reentry meeting, and gave the impression Student could not return until the meetings were held. (FF # 50.) District gave Parent less than 24 hours' notice before the meeting on March 10, 2022. (FF # 51.) This short notice was not sufficient to ensure that Parent and anyone she wanted to invite could attend the meeting. Indeed, Advocate 1 was unable to attend, so Parent found and hired Advocate 2, who had not participated in prior meetings for Student. (FF # 51). Thus, the SCO finds and concludes that this untimely notice resulted in a procedural violation of 34 C.F.R. § 300.322(a)(1).

March MDR Team's Decision-Making Process

The manifestation determination must be made by the child's parent and relevant members of the child's IEP team reviewing "all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents." 34 C.F.R.

§300.530(e). The list of relevant information that may be reviewed at an MDR is not exhaustive. *71 Fed. Reg. 156, 467190* (August 14, 2006). “Before reaching a manifestation determination, the team must review the information pertinent to that decision . . .” *Fitzgerald v. Fairfax Cnty. Sch. Bd.*, 556 F. Supp. 2d 543, 559 (E.D. Va. 2008). The conversation must focus directly on the relationship between the behavior and the student’s disability, not whether the student knew right from wrong or a global or generalized discussion of the typical expression of student’s disability. *See, eg. Bristol Twp. Sch. Dist. v. Z.B.*, 67 IDELR 9 (E.D. Pa. 2016) (holding that an MDR team violated the IDEA when it focused on the typical traits of individuals with ADHD).

Here, Case Manager was unavailable on March 10, so Student’s sixth grade teacher attended the March MDR and Case Manager joined for just the final moments. (FF # 53.) Student’s sixth grade teacher was not currently working with Student and had not participated in the December Eligibility meeting. (FF # 30.) Indeed, no one present at the March MDR had participated in the December Eligibility and IEP team meetings, except the Parents. There was also no school psychologist or social worker, or anyone working with Student on the needs identified in The Evaluation, who could interpret the instructional implications of that evaluation.

As a result, the team present at the March MDR inaccurately concluded that an FBA had not been conducted. (FF # 54.) It further concluded that Student did not struggle with impulsivity in the school setting, which is inconsistent with the results of The Evaluation. (FF #s 22, 63.) It also failed to consider the relevance of Student’s behavior goal in determining whether the behavior was a manifestation of Student’s OHI. (FF # 63.)

The March MDR did not need to be held as quickly as District made Parent believe. District only needed to conduct the manifestation determination “[w]ithin 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct.” 34 C.F.R. § 300.530(e). In this case, the March MDR only needed to be held within ten school days of the disciplinary decision on March 7 that would have caused a change in Student’s placement, or, because of District’s spring break, before March 28, 2022.

The MDR team also improperly discussed that the behavior was not impulsive because there are many “intentional” steps to making and posting a video where Student could have stopped himself. (FF #s 58 and 63.) The SCO finds, in consultation with CDE Content Specialist, that posting a video on social media is not necessarily indicative of long-term planning and inconsistent with impulsivity. Further, in assessing whether a student’s conduct was caused by or had a direct and substantial relationship to the student’s disability, the focus must be on the relationship between the student’s behavior and the student’s disability. The MDR team must defer to the behavior officials determined the student engaged in. *See South Lyon Cmty. Schs.*, 50 IDELR 237 (SEA MI 2008) (voiding a determination where the MDR team identified the misconduct as attempting to sell drugs, but student's actual behavior as determined by the principal and superintendent was passing a note that said, "I have pillz," with no further intent found). Here, Student was not accused of posting the video; he only said “we should post it” when the boys asked. (FF # 48.)

To the extent District relied on an explanation of the differences between the criteria for Significant Identifiable Emotional Disability and Serious Emotional Disability, the SCO also finds such a consideration was not appropriate as that information is provided to aid in the determination of eligibility, not MDRs. (FF # 60.) Additionally, Student is not eligible under that category, so it would not be within the scope of a consideration of Student's disability. (*Id.*)

Moreover, the conversation must focus directly on the relationship between the behavior and the student's disability, not whether the student knew right from wrong or a global or generalized discussion of the typical expression of a student's disability. Principal told Parents "just because your kid has an IEP, it does not mean he is not going to be disciplined." (FF # 57.) Director similarly told the SCO that although behavior may have been unexpected, Student "needs to know or understand the right from wrong." (FF # 57.) Questions about knowing right from wrong are not proper considerations when determining whether a behavior is directly and substantially related to a student's disability.

For all these reasons, the SCO finds and concludes that the March MDR team did not include all relevant members of Student's IEP team, failed to review all relevant information in Student's file and failed to focus on the question of whether Student's conduct was caused by or had a direct and substantial relationship to Student's disability, in violation of 34 C.F.R. § 300.530(e)(1).

C. April MDR

Notice of Meeting

Parents have a right, under the IDEA, to invite additional participants to an MDR. 34 C.F.R. § 300.530(e)(1). This right necessitates that school districts notify parents early enough to ensure that parents and their invited attendees have an opportunity to participate. *Id.*; 34 C.F.R. § 300.322(a)(1). Failing to adequately inform parents of an MDR may result in a violation of the IDEA. *See CDE 2019:563; Cherry Creek Sch. Dist. #5*, 56 IDELR 149 (SEA CO 01/24/11).

Here, School assigned Student's fourth suspension on April 21, 2022 and determined that same day that it constituted a change of placement, requiring an MDR. (FF # 76.) District initially asked Parent for availability to meet the following week on Thursday, April 21. (FF # 76.) When Parent had not responded just 17 hours later, on Friday, April 22, District scheduled the MDR for Monday morning. (FF # 77.) District gave Parent one business/school day notice before the meeting on April 25, 2022. (FF # 77.) This short notice was not sufficient to ensure that Parent and anyone she wanted to invite could attend the meeting (though Parents and Advocate 1 were able to attend). (FF # 78.) Still, the SCO finds and concludes that this untimely notice resulted in a procedural violation of 34 C.F.R. § 300.322(a)(1).

April MDR Team's Decision-Making Process

The manifestation determination must be made by the child's parent and relevant members of the child's IEP team reviewing "all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents." 34 C.F.R. § 300.530(e). The list of relevant information that may be reviewed at an MDR is not exhaustive. *71 Fed. Reg. 156, 467190* (August 14, 2006). "Before reaching a manifestation determination, the team must review the information pertinent to that decision . . ." *Fitzgerald v. Fairfax Cnty. Sch. Bd.*, 556 F. Supp. 2d 543, 559 (E.D. Va. 2008). The conversation must focus directly on the relationship between the behavior and the student's disability, not whether the student knew right from wrong or a global or generalized discussion of the typical expression of student's disability. *See, eg. Bristol Twp. Sch. Dist. v. Z.B.*, 67 IDELR 9 (E.D. Pa. 2016) (holding that an MDR team violated the IDEA when it focused on the typical traits of individuals with ADHD).

The April manifestation determination was made by a team comprised of the Parents and all relevant members of Student's IEP team. (FF # 78.) More of the team present at the April MDR participated in the December Eligibility Meeting and was at least somewhat familiar with Student's file. (FF #s 30, 78.) The April MDR team accurately noted that an FBA had been conducted. (FF # 81.) However, like the March MDR, it similarly concluded that Student did not struggle with impulsivity in the school setting, inconsistent with the results of The Evaluation. (FF #s 22, 84.) It also failed to consider the relevance of Student's behavior goal in considering whether the behavior was a manifestation of Student's OHI. (FF # 81.)

The April MDR also did not review all the information pertinent to the decision. The team did not have a robust discussion about either the context of or the hypothesis for the behavior. (FF # 81.) It also copied and pasted much of the language from the procedurally deficient March MDR, suggesting a limited conversation about the relationship between the current behavior and Student's disabilities. (FF #s 82, 84-86.)

Moreover, the conversation must focus directly on the relationship between the behavior and the student's disability, not whether a student knew right from wrong. At least two members of the MDR team were confused about exactly what behaviors School concluded Student engaged in. (FF # 80.) District focused on its perception that Student was targeting a protected class of students. (FF # 84.) Members of the MDR team again believed there were multiple moments where Student could have stopped himself. (FF # 84.) The SCO, in consultation with CDE Content Specialist, finds that students can impulsively target a particular student or population. In assessing whether a student's conduct was caused by or had a direct and substantial relationship to the student's disability, however, the focus must be on the relationship between the student's current behavior and the student's disability.

For all these reasons, the SCO finds and concludes that the April MDR team failed to review all relevant information in Student's file and failed to focus on the question of whether Student's

conduct was caused by or had a direct and substantial relationship to Student's disability, in violation of 34 C.F.R. § 300.530(e)(1).

D. Procedural Violations

Procedural violations of IDEA are only actionable to the extent that they impede the child's right to a FAPE, significantly impede the parents' opportunity to participate in the decision-making process regarding the provision of a 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, because of District's unnecessary rush to schedule the MDRs, Parent was unable to include Advocate 1 at the March MDR. Without Case Manager and School Psychologist, Parent was also unable to hear perspectives of providers who work with Student or who were qualified to interpret the instructional implications of The Evaluation as it relates to Student's behavior in the March MDR. Thus, the SCO finds and concludes that these procedural violations significantly impeded Parent's opportunity to participate in the decision-making process at the March MDR, resulting in a denial of FAPE.

Both MDRs also failed to review all the relevant information in Student's file and focus on the appropriate question of whether Student's conduct was caused by or had a direct and substantial relationship to Student's disability, resulting in procedural violations of 34 C.F.R. § 300.530(e)(1). The SCO thus turns to the question of whether these procedural violations resulted in a denial of Student's right to FAPE or caused a deprivation of educational benefit.

If the MDR team determines that the behavior is a manifestation, they must return the child to their previous placement and either conduct an FBA or review and modify as necessary an existing BIP. 34 C.F.R. § 300.530(f). If the MDR team determines that the behavior is not a manifestation, they may discipline the child "in the same manner and for the same duration" of time as they would a child without disabilities. *Id.* at § 300.530(e). Either way, a child who is removed from his placement for more than 10 days must receive educational services "so as to enable the child to continue to participate in the general education curriculum... and to progress toward meeting the goals set out in the child's IEP. *Id.* at § 300.530(d)(1). The child must also, as appropriate, receive an FBA and "behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur." *Id.*

In this case, although District determined that Student's behavior was not a manifestation, after both MDRs he was immediately returned to his educational setting. (FF #s 62 and 84). Thus, a different outcome in the MDRs would not have lessened Student's time outside of his educational setting. Had an appropriately constituted MDR team determined that Student's behavior was a manifestation, District would have been required to conduct an FBA, instead of only having to do so "as appropriate." 34 C.F.R. § 300.530(f). As has already been concluded, District's failure to appropriately evaluate and address Student's social emotional needs resulted in a denial of FAPE. Completion of an FBA after one of these MDRs could have mitigated that

failure and resulted in Student getting appropriate supports and services to address behavior concerns sooner. Thus, these procedural violations in the MDRs resulted in a denial of FAPE.

The IDEA requires that MDR decisions be made by members of the student's IEP team. 34 C.F.R. § 300.530(e)(2). Thus, as a matter of policy, CDE will not overturn MDR decisions through a State Complaint decision. CDE can direct districts to conduct a new MDR that remedies the identified deficiencies. *See, e.g., CDE 2019:563; Cherry Creek Sch. Dist., 119 LRP 437679 (SEA CO 6/22/18).*

In this case, ordering a new MDR is not necessary. The SCO will already require District to conduct additional social emotional testing, including an appropriate FBA, as part of a comprehensive evaluation and provide compensatory services as outlined below. The SCO will order additional remedies focused on preventing the recurrence of similar situations in the future.

Conclusion to Allegation No. 5: The District failed to convene an IEP team meeting at Parent's request from March 18, 2022 to present, in violation of 34 C.F.R. § 300.324(b)(1). This violation resulted in a denial of FAPE.

Parent's concern is that District refused to convene an IEP team meeting to discuss Student's ongoing behavioral struggles despite Parent's request.

The IDEA contemplates that a student's IEP may need to be reviewed and revised more frequently than once a year to address changing needs or an unexpected lack of progress. *See 34 C.F.R. § 300.324(a)(4)-(6), (b); Andrew F. v. Douglas County Sch. Dist. RE-1, 137 S. Ct. 988, 994 (U.S. 2017).* "Although the public agency is responsible for determining when it is necessary to conduct an IEP Team meeting, the parents of a child with a disability have the right to request an IEP Team meeting at any time." *Questions and Answers on U. S. Supreme Court Case Decision Andrew F. v. Douglas County School District Re-1, 71 IDELR 68 (OSEP 2017).*

"Under 34 C.F.R. § 300.324(b), IEP reviews and revisions are appropriate to address, among other issues: any lack of expected progress toward meeting the annual goals; the results of any reevaluation; information about the child provided to, or by, the parent; the child's anticipated needs; or other matters such as the behavior that led to the short-term disciplinary removal including the impact on the child's learning or that of others." *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions, 122 LRP 24161 (OSERS 07/19/22).*

In this case, Parent requested an IEP team meeting on March 18, April 22, April 25, April 26, May 5, May 11, May 13, May 15 and May 19. (FF #s 70, 77, 83, 89, 91, 92, 95, and 96.) During that time Student was making insufficient progress on his behavior goal, had two short-term disciplinary removals, and was regularly getting in trouble. (FF #s 48, 65, 76, 90, and 99.) Parent also privately obtained an additional evaluation she wished to share with the IEP team. (FF #s 68 and 70.)

District admits to not scheduling a meeting. (FF # 72.) District sent Parent a PWN on April 25 formally refusing Parent’s request for an IEP meeting because an IEE was underway and “the school team does not have sufficient data to support the addition of goals and will update any necessary information once the IEE is completed.” (FF # 87.) District argues that Parent did not respond to a request to meet about the IEE process as well as the IEP process, but Director only offered to help Parent complete IEE paperwork. (FF # 72.)

District further points to a regulation encouraging the consolidation of IEP team meetings, 34 C.F.R. §300.324(a)(5). (FF # 72.) However, this regulation has never been found to support a decision not to hold an otherwise necessary IEP team meeting. Rather, legislative history “makes it clear that there should be as many meetings a year as any one child may need.” Appendix A to 34 CFR Part 300, Question 20 (1999 regulations) (citing 121 Cong. Rec. S20428–29 (Nov. 19, 1975) (remarks of Senator Stafford.)) While IDEA does not require districts to grant every parental request for an IEP team meeting, they should grant any reasonable requests, including, for example, “if parents question the adequacy of services that are provided while their child is suspended for short periods of time.” *Id.* Again, the statute requires that IEP teams meet more than annually if, among other reasons, a student is not making appropriate progress or a Parent provides information. 34 C.F.R. §300.324(b).

Overall, despite Parent’s repeated requests and Student’s ongoing behavioral concerns which were interrupting his access to his education—all of which would be sufficient cause to convene an IEP team meeting—District did not convene an IEP team meeting between March 18, 2022 and the end of the 2021-2022 school year. For this reason, the SCO finds and concludes that District violated 34 C.F.R. §300.324(b).

Procedural violations of IDEA are only actionable to the extent that they impede the child’s right to a FAPE, significantly impede the parents’ opportunity to participate in the decision-making process regarding the provision of a 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 refusal to meet impeded Parent’s opportunity to participate in the decision-making process regarding the provision of FAPE. It also allowed Student’s behavior concerns to continue unaddressed for over two months, resulting in disruptions to his educational services, impeding his right to FAPE. Student was removed from the educational environment for one day after Parent’s initial request for an IEP team meeting. (FF # 76.) Although Student continued to struggle through the end of the year, the impact of this failure on Student was partially mitigated by the additional services District was providing outside of the IEP process, including hallway supervision, meetings with a guidance counselor and additional minutes with the Case Manager in one of Student’s classes. (FF #s 90, 94 and 99.) However, by adding those supports outside the IEP process, District further impeded Parent’s opportunity to participate in the decision-making process. For these reasons, the SCO finds and concludes that the failure to convene an IEP team meeting at Parent’s request resulted in a denial of FAPE. To remedy this violation, in addition to

the compensatory services outlined below, the SCO will order additional remedies focused on preventing the recurrence of similar situations in the future.

Compensatory Education

An equitable remedy, the purpose of Compensatory Education is to place a student in the position they would have been in, but for the district's violation of IDEA. *Reid v. Dist. of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005). It need not be an "hour-for-hour calculation." *Colo. Dep't of Ed.*, 118 LRP 43765 (SEA CO 6/22/18). Instead, 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. Sch. Dist. of Philadelphia*, 612 F.3d 712, 717-18 (3d Cir. 2010). The SCO now sets out a compensatory education package designed to help place Student in the same position he would have been in, had District complied with the requirements of the IDEA.

Here, District failed to appropriately assess Student's social emotional functioning in The Evaluation, failed to develop and revise and IEP designed to address Student's unique needs and, after improperly determining that Student's behaviors were not a manifestation of his disability, failed to conduct an FBA or develop a BIP to address the behaviors that were interrupting his educational services. District also significantly impeded Parent's ability to participate in the IEP Process by failing to provide timely progress reports or adequate notice of the MDRs, failing to convene an IEP team meeting and provided supports and services outside the IEP process. These violations had a compounding impact on Student's social emotional functioning, with many points where District could have appropriately assessed and addressed Student's needs instead of allowing his behavior to spiral, along with his anxiety and relationship toward school. The SCO, in consultation with CDE Content Specialist, finds an award of four (4) hours of direct, compensatory mental health services appropriate. These services, to support Student in learning emotional regulation and impulse control, can be provided in an individual or group setting.

Systemic IDEA Violations: This investigation demonstrates violations that are systemic and will likely impact the future provision of services for all children with disabilities if not corrected.

Pursuant to its general supervisory authority, CDE must consider and ensure the appropriate future provision of services for all IDEA-eligible students in 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).

A. Allegation No. 1: Comprehensive Evaluations

The SCO finds and concludes that the violation of 34 C.F.R. § 300.304 is not systemic in nature. Executive Director, Director, Coordinator and Case Manager all demonstrated an adequate

understanding of the requirements to conduct a comprehensive evaluation. (FF # 5). District staff also appropriately identified the areas of need for Student's evaluation. (FF # 11). The failure to conduct appropriate academic testing seems to have resulted from Parent's choice to have that testing conducted by District Instructional Coach 1 who was not familiar with Student or part of the team determining the evaluation plan. (FF # 14). It is less clear why the social emotional evaluations were not sufficiently comprehensive, but they may have been similarly impacted by the decision to have District and not School staff conduct the testing. There is nothing in the record to suggest that these problems are systemic.

B. Allegation No. 2: IEP Tailored to Student's Needs

The SCO finds and concludes that the violation of 34 C.F.R. §§ 300.320 and 300.324 is not systemic in nature. The issues with Student's IEP stem in large part from issues with The Evaluation. There is nothing in the record to suggest that these problems are systemic.

C. Allegation No. 3: Progress Reporting

The SCO finds and concludes that the violation of 34 C.F.R. § 300.320(a)(3) is systemic in nature. The fact that Parent did not receive a single timely progress report during the 2021-2022 school year suggests that there is a flaw in District's system and that this is an issue that is likely to be repeated. (FF # 25, 29, 66 and 99). Accordingly, the SCO will set forth specific remedies consistent with IDEA to ensure that the parents of IDEA-eligible students in District receive timely progress reports consistent with IEPs.

D. Allegation No. 4: MDR Decisions

The SCO finds and concludes that the violations of 34 C.F.R. §300.530(e) are systemic in nature. District made similar errors in both MDRs for Student, despite the fact that the meetings were led by two different District administrators. (FF #s 54 and 78). District does not offer any written procedures or guidance for teams conducting MDRs. (FF # 47). Written procedures are essential to ensuring school staff understand their responsibilities and provide special education services consistent with ECEA Rules, the IDEA, and school district policy. This investigation shows that District staff are not clear on when MDRs need to be held, who needs to be part of the MDR team, and what information MDR teams need to consider. The concern is that without written procedures, District may continue to conduct inappropriate MDRs which would impact the future provision of appropriate services to IDEA-eligible students in District who are subject to disciplinary action. Accordingly, the SCO will set forth specific remedies consistent with IDEA to ensure procedures are in place and designed for the appropriate conduct of MDRs.

E. Allegation No. 5: IEP Meetings at Parent Request

The SCO finds and concludes that the violation of 34 C.F.R. § 300.324(b)(1) is systemic in nature.

Of particular concern is that District regularly refuses to hold IEP meetings when parents have requested an IEE, excludes parents from decisions about whether the IEP team has sufficient information to modify a student's placement, and understands 34 C.F.R. § 300.324(a)(5) to require it to refuse parent requests in order to consolidate IEP team meetings. (FF # 72 and 83). If parents request an IEE, there is, by definition, a disagreement about the student's needs. 34 C.F.R. § 300.502. Unlike the 60-day timeline for conducting district evaluations, IEEs are contingent upon the availability of the evaluator and cannot always be conducted quickly. A significant concern here is that struggling students may go months without adequate progress or an IEP team meeting while awaiting an IEE. This investigation shows that District staff are not clear on when IEP team meetings need to be held, raising concerns about the future provision of appropriate services to IDEA-eligible students in District whose IEPs need to be revised more than annually. Thus, the SCO will set forth specific remedies consistent with IDEA to ensure that appropriate procedures are in place to ensure that the provision of FAPE to IDEA-eligible students whose parents request IEP meetings before the student's annual IEP team meeting is due.

REMEDIES

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

- a. Failing to conduct a comprehensive evaluation of Student in all areas of need, in violation of 34 C.F.R. § 300.304;
- b. Failing to develop an IEP tailored to Student's individual academic and social emotional needs, in violation of 34 C.F.R. §§ 300.320(a)(2) and 300.324(a)(2);
- c. Failing to provide Parent with quarterly reports on Student's progress on his goals, as required by his IEP, in violation of 34 C.F.R. § 300.320(a)(3);
- d. Failing to provide Parent with timely notice of the MDRs, in violation of 34 C.F.R. § 300.322(a)(1);
- e. Improperly determining that Student's behavior was not a manifestation of his disability at the March and April MDRs, in violation of 34 C.F.R. § 300.530(e); and
- f. Failing to convene an IEP team meeting at Parent's request, in violation of 34 C.F.R. § 300.324(b).

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

1. Corrective Action Plan

- a. By **September 12, 2022**, District shall submit to the 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. Executive Director, Director, Coordinator, Principal and Case Manager must review this Decision, as well as the requirements of 34 C.F.R. §§ 300.304, 300.320(a), 300.324, and 300.530(e). This review must occur no later than **Monday, October 10, 2022**. A signed assurance that these materials have been reviewed must be completed and provided to CDE no later than **Monday, October 17, 2022**.
- ii. Attendance and completion of training provided by CDE on IEP progress reporting, conducting MDRs and holding IEP team meetings more than annually. This training will address, at a minimum, the requirements of 34 C.F.R. §§ 300.320(a), 300.324(b) and 300.530(e) and the related concerns noted in this decision. Executive Director and CDE Special Education Monitoring and Technical Assistance 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 Executive Director, Director and all District Special Education Coordinators. Case Manager must attend the portion of the training relating to IEP progress reporting. Such training shall be completed no later than **Wednesday, December 21, 2022**.
 - a. 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, January 6, 2023**.
- c. The CDE will approve or request revisions that support compliance with the CAP. Subsequent to approval of the CAP, the CDE will arrange to conduct verification activities to confirm District's timely correction of the areas of noncompliance.

2. District Procedures

- a. By **Wednesday, February 22, 2023**, District must develop and submit written procedures to ensure compliance with 34 C.F.R. §§ 300.324(b) and 300.530(e):
 - i. District must develop written procedures regarding how to reply to parent requests for IEP team meetings, including when they must be held;

- ii. District must develop written procedures regarding conducting MDRs, in accordance with 34 C.F.R. § 300.530. Such procedures should outline when an MDR is required, who the required participants are, and provide guidance on making determination decisions, including what information must be considered and what the focus of the inquiry should be, as well as the related concerns addressed in this decision.

3. IEP Meeting and Reevaluation

- a. District must complete comprehensive testing of Student's social emotional functioning, by **Friday, October 14, 2022**. This testing must include an FBA. If, for any reason, Student refuses or is otherwise unable to participate in the FBA, District shall be excused from completing the FBA but must still convene Student's IEP Team in accordance with (3)(b) below. The FBA must include:
 - i. Consultation with a behavioral specialist who has demonstrated experience in this area;
 - ii. Interviews with Parents and staff who have observed Student's behaviors;
 - iii. Observations of Student in both structured and unstructured settings;
 - iv. A detailed summary statement concerning the function of Student's behavior;
 - v. Confirmation of the summary statement through formal observation of behavior, antecedents, and consequences; and
 - vi. Development of competing behavior summary to identify desired behavior, common reinforcing consequences, and alternative behaviors.
- b. Convene Student's IEP Team, at a mutually agreeable date and time, by **Wednesday, October 26, 2022**. In consideration of the evaluation, Student's IEP Team should: (a) review the suitability of Student's current educational placement; (b) draft a BIP as appropriate. The IEP Team should ensure Student's educational placement is made consistent with the IDEA's least restrictive environment requirements, as set forth in 34 C.F.R. § 300.114. Any BIP should be tailored to Student's unique behavioral needs and should address Student's educational placement for the 2022-2023 school year, in accordance with 34 C.F.R. § 300.324(a)(2)(i).

4. Compensatory Education Services for Denial of a FAPE

- a. Student shall receive **four (4) hours of direct school psychologist/social work services** provided by District. These services must target the areas of need identified in The Evaluation and the IEE. All four hours must be completed by **Wednesday, April 26, 2023**.

- b. **By Monday, September 12, 2022**, 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. District shall submit the schedule of compensatory services to the CDE no later than **Monday, September 19, 2022**. If the District and Parents cannot agree to a schedule by September 12, 2022, the CDE will determine the schedule for compensatory services by **Monday, September 26, 2022**.
- i. The parties shall cooperate in determining how the compensatory services will be provided. If Parent refuses to meet with District within this time, District will be excused from delivering compensatory services, provided that District diligently attempts to meet with Parent and documents such efforts. A determination that District diligently attempted to meet with Parent, and should thus be excused from providing compensatory services, rests solely with the CDE.
- c. During the meeting ordered above, in 3(b), the IEP team must also consider whether the focus of the remaining compensatory services should be adjusted to address the results of the evaluation ordered above, in 3(a).
- d. Monthly consultation between the provider(s) delivering compensatory services and Executive Director 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**, once services begin, until compensatory services have been completed. Consultation logs must contain the name and title of the provider and the date, the duration, and a brief description of the consultation.
- e. To verify that Student has received the services required by this Decision, District must submit records of service logs to the CDE by the **second Monday of each month** until all compensatory education services have been furnished. 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.
- f. 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. 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 the CDE of the change in the appropriate service log.

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

Colorado Department of Education
Exceptional Student Services Unit
Attn.: CDE Special Education Monitoring and Technical Assistance 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 the District's annual determination under the IDEA and subject the District to enforcement action by the CDE. **Given the current circumstances surrounding the COVID-19 pandemic, the CDE 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.

The Decision, dated August 4, 2022, is hereby amended this 17th day of August, 2022.



Rachel Dore
State Complaints Officer

APPENDIX

Complaint, pages 1-10

- Exhibit 1: Additional information
- Exhibit 2: Additional information received May 3, 2022
- Exhibit 3: Amended Complaint

Response, pages 1-5

- Exhibit A: IEPs
- Exhibit B: Service Logs
- Exhibit C: PWNs
- Exhibit D: IEP meetings
- Exhibit E: Evaluations
- Exhibit F: Progress Reports
- Exhibit G: Attendance detail
- Exhibit H: Disciplinary Records
- Exhibit I: District Policies
- Exhibit J: Emails
- Exhibit K: None
- Exhibit L: Verification of Delivery to Parent
- Exhibit M: Signature Pages

Reply, pages 1-37

- Exhibit 4: Timeline
- Exhibit 5: October Documents
- Exhibit 6: December and January Documents
- Exhibit 7: March Documents
- Exhibit 8: April Documents
- Exhibit 9: May Documents
- Exhibit 10: Verification of Delivery to District
- Exhibit 11: Additional Emails
- Exhibit 12: BRIEF Results

Telephone Interviews

- Parent: July 7 & 8, 2022
- Advocate 1: July 8, 2022
- Director: July 12, 2022
- Executive Director: July 12, 2022
- Case Manager: July 12, 2022

- SLP: July 13, 2022
- Coordinator: July 13, 2022
- Instructional Coach 1: July 18, 2022