

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

State Complaint SC2025-533
Centennial BOCES

DECISION

INTRODUCTION

On March 20, 2025, the Parents (“Parents”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against the Centennial BOCES (“BOCES”) and concerning two of its member school districts (“District 1”) and (“District 2”). The Colorado Department of Education (“CDE”) determined that the Complaint identified one allegation subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

On March 24, 2025, upon agreement of the parties, the CDE extended the 60-day investigation timeline to allow the parties to participate in mediation consistent with 34 C.F.R. § 300.152(b)(1). Mediation resulted in impasse and the CDE resumed the investigation on April 17, 2025.

The CDE’s goal in state complaint investigations is to improve outcomes for students with disabilities and promote positive parent-school partnerships. A written final decision serves to identify areas for professional growth, provide guidance for implementing IDEA requirements, and draw on all available resources to enhance the quality and effectiveness of special education services.

RELEVANT TIME PERIOD

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after March 20, 2024. Information prior to March 20, 2024 may be considered to fully investigate all allegations.

SUMMARY OF COMPLAINT ALLEGATIONS

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

The Complaint raises the following allegation subject to the CDE's jurisdiction under 34 C.F.R. § 300.153(b)² of the IDEA:

1. The BOCES did not properly determine Student's educational placement in or around April 2024 because it did not ensure the placement decision was made by a group of persons that included Parents and others with knowledge of Student, the meaning of the evaluation data, and the placement options, as required by 34 C.F.R. §§ 300.116, 300.321, 300.322, 300.327, and 300.501(c) and ECEA Rule 4.03(8).

FINDINGS OF FACT

After thorough and careful analysis of the entire Record,³ the CDE makes the following findings of fact ("FF"):

A. Background

1. Student is 15 years old and resides within the boundaries of District 1, a member school district of the BOCES. *Response*, p. 1. During the 2024-2025 school year, Student attended ninth grade at a high school ("High School") in District 1. *Id.* at p. 3. BOCES is responsible for providing a free appropriate public education ("FAPE") to all IDEA-eligible children with disabilities attending a school in its member school districts. ECEA Rule 2.02.
2. Student is eligible for special education services as a child with multiple disabilities. *Exhibit A*, p. 1. Student struggles with the concept of time, including how long things will take. *Id.* at p. 5; *Interview with Parents*. She also struggles with attention and cannot multitask. *Exhibit A*, p. 18; *Interviews with Parents and Student's special education teacher ("Teacher")*.
3. Student is social and outgoing and generally cheerful. *Interviews with Parents and Teacher*. She does well with a consistent routine. *Exhibit A*, p. 3; *Interview with Teacher*.
4. When Student initially enrolled in District 1, her then-current IEP required a significant supports needs ("SSN") classroom, which District 1 did not have. *Response*, p. 2. As a result, Student was placed at a middle school ("Middle School") in District 2, another member school district of BOCES, which did have an SSN program. *Id.* Student attended Middle School for three years, including eighth grade during the 2023-2024 school year. *Id.*

B. 2024 IEP

5. In February 2024, during Student's eighth grade year, an IEP team including Parents, Teacher and others met to develop Student's annual IEP ("IEP"). *Exhibit A*, p. 2. The IEP reviewed

² The CDE's state complaint investigation determines if BOCES complied with the IDEA, and if not, whether the noncompliance results in a denial of a FAPE. 34 C.F.R. §§ 300.17, 300.101, 300.151-300.153.

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

Student's present levels before describing transition and annual goals and accommodations. *Id.* at pp. 3-15.

6. According to the IEP, Student required the following services:

- Direct special education services inside the general education classroom: 900 minutes per week ("MPW");
- Direct special education services outside the general education classroom: 900 MPW;
- Speech and language therapy outside the general education classroom: 60 minutes per month ("MPM").

Id. at p. 17.

7. Student's least restrictive environment was general education 40-79% of the time where she would have exposure to real world circumstances as well as support to practice vocational skills. *Id.* at p. 18.

8. Neither the IEP nor the embedded prior written notice indicated an intent to move Student from District 2 to District 1. *Id.* at pp. 1-19. At the time, it was understood that Student would attend high school in District 2. *Interviews with Parents and Teacher.*

C. Policies, Practices, and Procedures in BOCES

9. Placement decisions in BOCES are made by IEP teams, including parents. *Interview with Case Manager and BOCES' Director of Special Education ("Director").* Location changes in BOCES are uncommon, since most of its member school districts have just one school for each age group. *Interview with Director.* It generally only occurs when a neighborhood school cannot implement the services in a student's IEP. *Id.* In those cases, BOCES begins conversations with other member districts with appropriate programming to see who might have space available. *Id.* Parents are then informed of the location change and where services will be provided going forward. *Id.*

10. BOCES does not have guidance or procedures governing this practice. *Id.; Response*, p. 5. BOCES is presently developing guidance on parent participation in location changes. *Id.; Interview with Director.* Once complete, the guidance will be available on a shared drive along with all other information and training documents. *Interview with Director.* Director also plans to highlight the guidance in a newsletter that will go out to all special education providers in the fall of 2025. *Id.*

D. Decision to Change Location of Student's Services

11. In the spring of 2024, District 1 hired Teacher full time to create an SSN program at High School. *Id.*; *Exhibit I*, p. 1. At the time, Teacher was Student’s special education teacher in District 2. *Response*, p. 2; *Interviews with Teacher and Director*. Knowing that High School would now be able to implement Student’s IEP, administrators from District 1 and District 2 decided that the location of Student’s services would transition from District 2 to District 1 for the 2024-2025 school year. *Response*, p. 3. Although District 1 has a four-day school week, instead of five days, its school days are longer. *Interview with Director*. As such, Student’s weekly services did not change. *Id.*
12. In early May 2024, the superintendent of District 1 called Director to see if they needed to have an IEP meeting to bring Student back to District 1. *Interview with Director*. Director advised him no IEP meeting was needed if Student’s services and LRE had not changed. *Id.*
13. Parents were not involved in this decision. *Complaint*, p. 9; *Response*, p. 3. No one communicated this decision to Parents until August 7, 2025, about one week before school started on August 13. *Response*, p. 3; *Exhibit G*, p. 1; *Exhibit I*, p. 4. Director indicated that if a similar situation arises in the future, she will advise the administrator that parents must be informed of the decision even if an IEP meeting is not required. *Interview with Director*.
14. Once Student adjusted to the new routine, she did well at High School, including with the consistency of having the same paraprofessional for support. *Interviews with Parents and Teacher*.

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: BOCES did not ensure parent participation in the decision to change Student’s location, as required by ECEA Rule 4.03(8)(b)(iii).

Placement—a term used to denote the provision of special education and related services—is determined by the IEP Team, including parents, and must be individualized, as well as based on the IEP. 34 C.F.R. § 300.116; ECEA Rule 4.03(8)(a); *Questions and Answers on Endrew F. v. Douglas County School Dist. Re-1*, 71 IDELR 68 (EDU 12/7/17). Specifically, school districts must ensure that the placement decision is made by a group of persons, including parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. 34 C.F.R. § 300.116(a); *see also* 34 C.F.R. §§ 300.321(a)(1), 300.327 and 300.501(c)(1). The child’s placement must also be “as close as possible to the child’s home” and, if possible, “in the school that he or she would attend if not disabled.” 34 C.F.R. § 300.116(b)-(c).

Placement is not “a specific place, such as a specific classroom or specific school.” ECEA Rule 4.03(8)(a). A “change in building or location that is not a change in placement, as described in Section 4.03(8)(b), may be accomplished without convening the child’s IEP Team or conducting a reevaluation.” ECEA Rule 4.03(8)(b)(iii). However, “[d]ecisions regarding the physical location in

which a child's IEP will be implemented and the assignment of special education staff responsibilities shall be made by the Director of Special Education or designee, subject to the limitations in this section 4.03(8)." ECEA Rule 4.03(8)(a). Decisions "changing location or building should be made with due consideration for the impact on the child's total education program and must include parent participation." ECEA Rule 4.03(8)(b)(iii); *See also, Denver Public Schools*, 81 IDELR 263 (SEA CO 2022) (finding that parent participation is required in "any decisions about changing the location where a student's IEP will be implemented"). This parent participation requirement reflects a 2022 change in the ECEA Rules which formerly stated "[d]ecisions regarding the physical location in which a child's IEP will be implemented . . . shall be made by the Director of Special Education or designee." ECEA Rule 4.03(8)(a) (amended 2022).

Still, the right to participate in the decision-making process also does not afford parents the opportunity to veto or mandate the selection of a specific school. ECEA Rule 4.03(8)(b)(iii); *See, Arapahoe County School District 6*, 124 LRP 39074 (SEA CO 2024) (finding that Parent participated in the decision about where Student's IEP would be implemented, although District did not agree to implement the services at the location preferred by Parent).

In this case, Student's placement—or the provision of special education and related services—did not change. (FF # 11.) Instead, the location where Student would receive those services changed. (*Id.*) District 1 now has a full-time special education teacher, and Student receives those services at her neighborhood High School. (*Id.*) However, Parents were not included in discussions about changing her location and they were not notified of the decision until several months after it was made. (FF #s 12, 13.) Thus, the CDE finds and concludes that Parents were not included in the decision about a change to the location of Student's services, as required by ECEA Rule 4.03(8)(b)(iii).

The CDE also finds and concludes that this noncompliance did not result in educational harm for Student and thus no individual remedies are required. Once Student adjusted to the new routine, she did very well at High School. (FF # 14.) There has been no change to her special education or related services. (FF # 11.) Moreover, her new location is closer to her home, specifically in the school she would attend if not disabled. (FF # 1.)

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

Pursuant to its general supervisory authorities, CDE must also consider and ensure the appropriate future provision of services for all IDEA-eligible students in the BOCES. 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 State Enforcement Agency's "exercise of its general supervision responsibilities" and serve as a "powerful tool to identify and correct noncompliance with Part B." *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

In this case, BOCES does not have guidance or procedures regarding the process for changing the location where a student's IEP will be implemented. (FF #s 9, 10.) Practice in the BOCES has been to notify parents of a location change after the decision has already been made. (FF #s 9, 13.) And indeed that is what occurred in this situation for Student. (FF # 13.) This is not consistent with the requirement that parent participation must be afforded for decisions involving a change in building or location. ECEA Rule 4.03(8)(b)(iii). Thus, the CDE finds and concludes that this noncompliance is likely to impact the future provision of services. As such, the CDE will require BOCES to develop written guidance or procedures on determining the location of services, consistent with the requirements of ECEA Rule 4.03(8)(b)(iii).

REMEDIES

The CDE concludes that BOCES did not comply with the following IDEA requirements:

1. Including Parents in the decision about a change in building or location that is not a change in placement, as required by ECEA Rule 4.03(8)(b)(iii).

To demonstrate compliance, BOCES is ORDERED to take the following actions:

1. Corrective Action Plan

- a. By **Friday, July 11, 2025**, BOCES shall submit to the CDE a corrective action plan ("CAP") that adequately addresses the noncompliance 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 BOCES is responsible. 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 BOCES timely correction of the areas of noncompliance.

2. Final Decision Review

- a. Director and Teacher must read this Decision in its entirety, as well as review the requirements of ECEA Rule 4.03(8), by **Wednesday, July 23, 2025**. If these individuals are no longer employed by the BOCES, the BOCES may substitute individuals occupying identical roles to demonstrate compliance with this remedy. A signed assurance that this information has been read and reviewed must be provided to the CDE by **Friday, July 25, 2025**.

3. Procedure

- a. By **Friday, July 25, 2025**, BOCES must submit a written procedure outlining how BOCES ensures compliance with ECEA Rule 4.03(8)(b)(iii).

- i. At a minimum, the procedures must offer clear guidance on ensuring the inclusion of parents in decisions about where to implement a student's IEP.
- ii. BOCES may submit existing procedures that meet these requirements. Any proposed procedure must be submitted to CDE Special Education Monitoring and Technical Assistance for review and approval prior to being finalized.
- iii. BOCES must ensure that all special education providers and all administrators involved in making decisions about where students receive services receive a copy of the approved written procedures no later than **Monday, August 18, 2025.**
- iv. Evidence that the procedure was shared with staff, such as a copy of the email notice sent, must be provided to the CDE no later than **Friday, August 22, 2025.**

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
201 E. Colfax Avenue
Denver, CO 80203

NOTE: If BOCES does not meet the timelines set forth above, it may adversely affect BOCES' annual determination under the IDEA and subject BOCES to enforcement action by the CDE.

CONCLUSION

The Decision of the CDE is final and is not subject to appeal. *CDE's State Complaint Procedures*, Section E, ¶ 2. If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *Id.*; *see also* 34 C.F.R. § 300.507(a); 71 Fed. Reg. 156, 46607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer ("SCO").

Dated this 12th day of June, 2025.



Rachel Dore
Senior State Complaints Officer

APPENDIX

Complaint, pages 1-10

- Exhibit 1: Correspondence

Response, pages 1-7

- Exhibit A: IEPs
- Exhibit B: None
- Exhibit C: Notices of Meeting
- Exhibit D: PWNs
- Exhibit E: Evaluations
- Exhibit F: None
- Exhibit G: Calendars
- Exhibit H: BOCES Policies
- Exhibit I: Correspondence
- Exhibit J: None
- Exhibit K: Verification of Delivery

Telephone Interviews

- Parents: May 19, 2025
- Teacher: May 19, 2025
- Director: May 21, 2025