

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

**State-Level Complaint 2020:521
El Paso County School District 11**

DECISION

INTRODUCTION

The parents (“Parents”) of a child (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state-level complaint (“Complaint”) against El Paso County School District 11 (“District”) on June 18, 2020.

The State Complaints Officer (“SCO”) extended the 60-day investigation timeline to allow the parties to participate in mediation. However, mediation resulted in an impasse and, on July 27, 2020, the SCO resumed the investigation.

The SCO determined that the Complaint identified two allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.152. The SCO has jurisdiction to resolve the Complaint pursuant to these regulations.

RELEVANT TIME PERIOD

The Colorado Department of Education (“CDE”) has authority to investigate alleged violations that occurred not more than one year from the date the original complaint was filed. 34 C.F.R. § 300.153(c). Accordingly, this investigation will consider only events that occurred not earlier than June 18, 2019 to determine whether a violation of the IDEA occurred. *Id.* Additional information prior to this date may be considered to fully investigate all allegations accepted in this matter. Findings of non-compliance, if any, shall be limited to one year prior to the date the Complaint was filed.

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.

SUMMARY OF COMPLAINT ALLEGATIONS

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

1. Failed to review and revise Student’s April 2019 IEP to address the lack of expected progress toward annual goals, consistent with 34 C.F.R. § 300.324(b)(1);
2. Failed to develop an IEP that was tailored to meet Student’s individualized needs in May 2020 by:
 - a. Failing to consider the concerns for Parents for enhancing the education of Student in the development of Student’s May 2020 IEP, consistent with 34 C.F.R. § 300.324(a)(1)(ii);
 - b. Failing to consider recent evaluations of Student in the development of Student’s May 2020 IEP, consistent with 34 C.F.R. § 300.324(a)(1)(iii);
 - c. Failing to consider the academic, developmental, and functional needs of Student in the development of Student’s May 2020 IEP, consistent with 34 C.F.R. § 300.324(a)(1)(iv).

FINDINGS OF FACT

After thorough and careful analysis of the entire record,² the SCO makes the following FINDINGS OF FACT (“FF”):

A. Background

1. Student attends sixth grade at a District middle school (“Middle School”). *Interview with Parents*. During the 2019-2020 academic year, Student completed fifth grade at an elementary school in the District (“Elementary School”). *Id.*
2. Student is eligible for special education and related services under the Multiple Disabilities category based on Student’s visual impairment and cognitive disability. *Exhibit A*, p. 2; *Exhibit B*, p. 2. Though Student’s eligibility for special education is premised on these two disabilities, she has other health conditions—such as epilepsy and dysphagia—which impact her in the school environment. *Exhibit 4*, pp. 1-2.
3. In February, one of Student’s physicians began to suspect that Student might have Cortical Visual Impairment (“CVI”). *Interview with Parents; Exhibit 7*, pp. 1-2. Student was

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

referred to another physician for a CVI evaluation. *Exhibit 8*, pp. 1-6. On July 15, 2020, Student was officially diagnosed with CVI. *Id.* Student was not diagnosed with CVI until after the events at issue in this investigation; as a result, Student’s CVI diagnosis is not considered in this decision.

4. Student is described as a warm, friendly, loving young lady who enjoys interacting with her peers. *Interviews with Parents, Special Education Teacher, Speech Language Pathologist (“SLP”), and Orientation and Mobility Specialist (“O&M Specialist”).* Student likes books and activities involving movement, light, and music. *Id.* Communication and mobility pose the greatest challenges to Student. *Id.* Student is primarily non-verbal, though she does verbalize single words on occasion. *Interview with SLP.* Student’s limited communication impacts her ability to access areas of the curriculum. *Interview with Special Education Teacher, SLP, and O&M Specialist.* Student’s visual impairment and other musculoskeletal issues impact her mobility. *Interview with Parents.*

B. Student’s 2019-2020 IEP

5. At the beginning of Student’s fifth-grade year, her April 11, 2019 IEP (“2019 IEP”) was in effect. *Exhibit A*, pp. 2-16.

6. The 2019 IEP reviewed Student’s present levels of performance, noting that Student had met all her IEP goals for the previous year. *Id.* at pp. 4-5. These goals related to mobility, communication, vision, and academic access skills. *Id.*; *see also Exhibit R*, pp. 5-7. Each of Student’s service providers shared his or her recent observations of Student. *Exhibit A*, pp. 4-5.

7. As noted in the 2019 IEP, Student’s “significant limitations in cognitive functioning, her weak motor and language skills and her significant visual impairment cause[d] progress in all curricular areas to be significantly delayed.” *Id.* at p. 5.

8. The 2019 IEP contained four goals targeting Student’s access skills, communication skills, and vision. *Id.* at pp. 8-10.

- Goal #1: “When given the directive to either ‘push’ or ‘pull’, [Student] will independently open a door (with resistance) to gain access to rooms in the school environment with a weekly average of 80% of opportunities over 4 consecutive weeks.” *Id.* at p. 8.
- Goal #2: “Provided verbal and visual supports, [Student] will use a variety of functional 2-3 word phrases through word approximation and sign/gesture in 8 out of 10 opportunities in 3 consecutive speech sessions.” *Id.*
- Goal #3: “While walking the length of the chain link fence along the playground, [Student] will touch the edges of the sidewalk with her long white cane less than 4 times, 3 of 4 consecutive data days.” *Id.* at p. 9.

- Goal #4: “[Student] will make a purposeful choice by selecting from an array of 2 to 4 symbols/pictures on a communication notebook and give it to her communication partner in 4 out of 5 opportunities for 3 consecutive sessions.” *Id.*

9. The Service Delivery Statement indicated that Student would receive “[i]ndividual support for functioning within the school environment, including toileting and feeding support and monitoring for safety by SPED staff.” *Id.* at p. 13.

10. Under the 2019 IEP, Student had 6.5 hours per day of direct “access skills” instruction from the special education team. *Id.* The IEP does not specify whether this instruction is provided inside or outside the general education classroom. *Id.*

11. In addition, Student received 3 hours per month of direct speech instruction, 1 hour per month of direct orientation and mobility, 1 hour per month of direct physical therapy, and ½ hour per month of direct occupational therapy. *Id.* Student also had ½ hour per week of direct instruction from a teacher of the visually impaired (“TVI”). *Id.*

12. Per the 2019 IEP, Student spent 40% to 79% of her time in the general education classroom. *Id.* at p. 13.

13. Special Education Teacher served as Student’s case manager for the 2019-2020 school year. *Interview with Special Education Teacher.* At the beginning of the school year, Special Education Teacher provided Student’s general education teacher and all of her service providers with a printout of the “teacher summary” of the 2019 IEP and went over the document with each of them. *Id.*

C. 2019-2020 School Year

14. A traditional school day at Elementary School began at 8:00 a.m. and ended at 2:30 p.m. *Id.* Since Student began at Elementary School in kindergarten, she has attended a modified school day. *Interview with Parents.* A modified school day prevented Student from becoming overstimulated or fatigued and allowed Student to receive therapy from private providers. *Id.*

15. At the beginning of the 2019-2020 school year, Parents provided Elementary School a copy of Student’s modified schedule for the year. *Id.* After being tweaked a few times during the first month of school, Student’s schedule was:

- Monday: 8:30 a.m.-1:30 p.m.
- Tuesday: 9:15 a.m.-2:00 p.m.
- Wednesday: 9:30 a.m.-1:30 p.m.
- Thursday: 8:30 a.m.-2:00 p.m.
- Friday: 10:45 a.m.-2:30 p.m.

Id. As a result of the modified schedule, Student attended approximately 2/3 of the traditional school week. *Interviews with Parents and Special Education Teacher.* Student's modified schedule included only private therapy appointments and did not account for Student's medical appointments or illnesses. *Interview with Parents.*

16. Student frequently arrived 10-15 minutes after her scheduled arrival time. *Interview with Special Education Teacher.* On some occasions, Student's late arrival caused her to miss at least some of her related service minutes. *Id.* In addition to her modified schedule, Student was completely absent on 16 days—or 12% of the instructional days—between August 2019 and March 2020. *Response, p. 4; Exhibit O, p. 2.* As a result of absences, SLP estimated that, from month-to-month, Student missed 25-50% of her SLP service minutes. *Interview with SLP.*

17. During her interview, Special Education Teacher described what a typical school day might look like for Student at Elementary School. *Id.* Student arrived at Elementary School according to her modified schedule (or shortly thereafter). *Id.* Accompanied by Special Education Teacher or one of the Special Education Educational Assistants ("EAs"), Student used the restroom before joining her classmates in a general education classroom, often physical education or music. *Id.* Special Education Teacher or an EA sat with Student. *Id.* Once that class ended, Student had a snack in the special education classroom and used the restroom again. *Id.* Then Student returned to the general education classroom and looked through a book. *Id.* Or, if the general education students were working on computers, Student might draw on an iPad. *Id.* Next, Student took another restroom break and returned to the special education classroom, where she might work on a puzzle. *Id.*

18. Before lunch, Student visited the playground and navigated the equipment with assistance from Special Education Teacher or an EA. *Id.* Student had lunch with her peers and returned to the special education classroom. *Id.* There, Student engaged in a movement activity and worked on naming objects. *Id.* Student finished her day in the general education classroom, where she might do an activity similar to her non-disabled peers (but on her accommodations level) or a craft. *Id.*

19. Unless Student was receiving her related services, Special Education Teacher or one of the EAs accompanied Student throughout her school day. *Id.* The District provided Student 1:1 supervision throughout her time at Elementary School. *Interviews with Special Education Facilitator ("Facilitator"), Special Education Teacher, and Parents.*

20. Special Education Teacher and the EAs assisted Student with mobility, toileting, and feeding, while monitoring Student's safety. *Interview with Special Education Teacher.*

21. During fifth grade, Student wore a gait belt and used a long white cane to navigate inside and outside of Elementary School. *Interviews with O&M Specialist and Special Education Teacher.* Staff used a light touch on the tail of the gait belt to steady Student in hallways. *Interview with Special Education Teacher.* However, inside familiar classrooms—such as the

special education classroom or her fifth-grade classroom—Student walked freely and was able to retrieve her own things out of her cabinet. *Id.* Outside on pavement, staff held her hand. *Id.*

22. As noted above, the 2019 IEP required 6.5 hours of per day of direct “access skills” instruction from the special education team. *Exhibit A*, p. 13. This “access skills” instruction included any time Special Education Teacher or an EA was with Student, whether she was in the general education classroom or the special education classroom and whether she was receiving specialized instruction, drawing on an iPad, or participating in music class. *Interview with Special Education Teacher.*

D. Progress on 2019 IEP Goals

23. Special Education Teacher and Student’s service providers monitored Student’s progress throughout the school year. *Id.*; *Interviews with O&M Specialist and SLP*; *Exhibit E*, pp. 2-8; *Exhibit I*, pp. 2-4.

24. Student’s Progress Reports indicate that Student met Goal #3 and made insufficient progress on Goals #1, 2, and 4. *Exhibit I*, pp. 2-4.

25. Goal #3 required Student to “touch the edges of the sidewalk with her long white cane less than 4 times, 3 of 4 consecutive data days” while walking the length of the fence along the playground. *Exhibit A*, p. 9. Special Education Teacher—who monitored Student’s progress on this particular goal—determined that Student met this goal. *Exhibit I*, pp. 2-4; *Interview with Special Education Teacher.* However, Special Education Teacher’s underlying data points do not evidence that Student met this goal. *Exhibit E*, pp. 2-8.

26. Special Education Teacher’s data show two of four consecutive data days on which Student touched the sidewalk 3 times, but Student never achieved less than four touches on 3 of 4 consecutive data dates, as required by the goal. *Id.* Despite the data, Special Education Teacher determined the goal to have been met because she witnessed Student’s success on other days, which were not data collection days. *Id.* Though Student made significant progress on this goal, the SCO finds that Student did not technically meet Goal #3.

27. Goal #1 required Student to independently open a door when given the directive to either “push” or “pull.” *Exhibit A*, p. 8. Student made inconsistent progress on this goal during the 2019-2020 school year. *Exhibit I*, p. 2. Student successfully mastered independently pushing open a door. *Interview with Special Education Teacher.* But, unless prompted, Student forgot to step backwards while pulling open a door, causing the door to run into her feet. *Id.* Because the goal required Student to independently open a door with only a simple directive (“pull”), Student did not meet this goal. *Id.*

28. Student’s remaining two goals—Goals #2 and #4—targeted Student’s communication skills. *Exhibit A*, pp. 8-9. Student made little measurable success on these goals during the school year. *Exhibit I*, p. 4. With regard to Goal #4, the SLP’s progress notes demonstrate how

she tried to tweak her approach to improve Student's success from quarter-to-quarter, such as by trying to identify more preferred pictures for Student, using pictures with different contrast, and trying to pair pictures with objects. *Id.*

29. By December 2019, SLP (who did not write these goals and started working with Student in August 2019) realized these communication goals might have been too ambitious for Student. *Interview with SLP.* SLP met with Assistive Technology Consultant to discuss ways to incorporate assistive technology into Student's speech services and improve her communication. *Id.* The District agreed to perform Student's reevaluation a month early (in March 2020), so instead of revising Student's goals, SLP started to incorporate assistive technology into her time with Student. *Id.*

30. According to Special Education Teacher, SLP, and O&M Specialist, Student's absences impacted her ability to make expected progress on her 2019 IEP goals. *Interviews with Special Education Teacher, SLP, and O&M Specialist.* Had Student been present at Elementary School more, Student would have made more progress. *Id.*

31. Special Education Teacher did not inform Parents that she believed Student's attendance was affecting Student's progress on her IEP goals. *Interview with Special Education Teacher.* Because Student had always had a modified schedule at Elementary School, Special Education Teacher did not feel it was her place to address the issue with Parents. *Id.* No one else raised the issue with Parents either. *Interview with Parents.*

E. Student's Re-evaluation

32. On January 27, 2020, Special Education Teacher obtained Parents' consent to evaluate Student, beginning Student's re-evaluation process. *Exhibit G, p. 2; Exhibit D, p. 4.*

33. The District performed a variety of assessments as part of Student's re-evaluation including, but not limited to, the following:

- Orientation and Mobility Functional Assessment by O&M Specialist;
- Review of Records and Observation by Special Education Teacher;
- Functional Communication Profile, Communication Matrix, and Review of Records by SLP;
- Stanford-Binet Intelligence Scales, Fifth Edition ("S-B V") and Cognitive Scale of Developmental Profile 3 ("DP-3") by School Psychologist; and
- Review of records and informal Functional Vision Assessment by TVI.

Exhibit D, p. 4.

34. School Nurse noted that Student’s medical diagnoses make her a “high fall risk.” *Id.* at p. 7. School Nurse did not discuss any personal observations of Student to support this categorization. *Id.*

35. The Orientation and Mobility Functional Assessment found that Student:

walks in all school areas using a long white cane with a weighted roller tip using contact guard on a gait belt or stand-by assistance. . . . [Student] appears familiar with her present school setting and the current routes that she walks. In a familiar and predictable area such as the Sped classroom, [Student] is able to walk around unassisted in an uncluttered open area with staff within a line of sight for safety.

Id. at p. 5. The Physical Therapist also described Student’s mobility positively, noting that Student “is able to walk the required distances (at [Elementary School]) to access all aspects of the school environment, but at a slower pace than her same aged peers.” *Id.* at p. 7.

36. The SLP summarized her assessments as follows:

Receptively, [Student] will respond to her name, some basic and routine commands with verbal and physical prompts. . . . [Student] has limited object recognition. [Student] does not understand basic concepts and has difficulty recognizing pictures due to her visual impairment. . . . Expressively, [Student] communicates mostly through actions, gestures, vocalizations, and facial expressions. [Student] will spontaneously produce single words occasionally like book, ball, beep-beep (car), mom, etc. . . . Generally, [Student] imitates words rather than spontaneously producing them herself. . . . [Student] received a rating of severe impairment in the area of receptive and expressive language.

Id. at p. 5.

37. Taken together, the S-B V and the DP-3 performed by School Psychologist indicated Student’s intellectual functioning to be less than a two-year-old. *Id.* at p. 6.

F. Development of Student’s 2020 IEP

38. Student’s IEP Team meeting was initially scheduled for March 17, 2020, and the District issued a proper Notice of Meeting. *Exhibit H.* When that meeting had to be rescheduled, Parents and Special Education Teacher communicated via email to reschedule the meeting at a mutually agreeable time on April 28, 2020. *Exhibit J*, pp. 356-58. The District did not issue a Notice of Meeting for the April 28 meeting (or the continuation on May 5, 2020). *See Exhibit H.*

39. District policy requires issuance of a Notice of Meeting “stating the purpose, time, and location of the meeting and indicating who will be in attendance at the meeting.” *Exhibit K*, p.

42. The Notice of Meeting should be issued “sufficiently in advance of the scheduled time so that the parent(s) has an opportunity to attend.” *Id.*

40. In March, Special Education Teacher provided Parents a draft of Student’s 2020 IEP. *Interview with Special Education Teacher.* In response, Parents contacted Special Education Teacher to express their concern over the level of supervision proposed in the draft IEP. *Id.* Parents interpreted “constant adult supervision” as providing Student less supervision than the language used in her 2019 IEP (which required “individual support for functioning in the school environment”). *Id.; Interview with Parents.*

41. Facilitator responded to Parents:

I want to reassure you that I don’t see [Student’s] services on her IEP changing much at all. I don’t know [Student] as well as the rest of the team, but I do know her well enough to believe that she absolutely continues to need full-time, constant supervision throughout the day. . . . [Student’s] needs are what drive her IEP, a change in [grade] levels does not drive it.

Id. at p. 253.

42. Leading up to the IEP Team meeting, Parents continued to reach out to District staff to address their concerns with the draft Evaluation Report or Draft IEP.

- Parents contacted SLP on April 20 to request that the IEP Team increase the number of goals in Student’s IEP. *Id.* at p. 261. In response, the District members of the IEP Team began to draft additional goals for Student. *Id.* at p. 260.
- On April 23, Parents emailed Facilitator a document outlining their proposed additions and changes to the draft 2020 IEP. *Exhibit J*, p. 14-16. Later that day, Facilitator responded as follows:

Thank you! As you know, this is a collaborative process, and your input is absolutely crucial to that process. [Special Education Teacher] had shared that you had some suggestions/changes/clarifications, and I am glad to work with the team to incorporate those. I will try to get a WebEx meeting together with members of the team sometime tomorrow. Yes, you will get a revised draft, hopefully this weekend.

Id. at p. 19. Facilitator sent Parents’ proposed additions and changes to the District members of the IEP Team for their consideration and held a virtual meeting to revise the draft IEP. *Id.* at pp. 285, 287-91; *Interview with Facilitator.* On April 26, Facilitator sent Parents and their attorney a revised draft of the 2020 IEP based on Parents’ input. *Exhibit J* at p. 71.

- Parents emailed Facilitator on April 27 to express concern over the amount of related services and goals in the draft IEP. *Id.* at pp. 52-53. Facilitator forwarded Parents' concerns to the District members of the IEP Team. *Id.* at p. 131.
- Just before the IEP Team meeting on April 28, Parents sent Facilitator a document outlining their concerns with the draft Evaluation Report. *Id.* at pp. 62-65.

43. On April 28, the District convened a properly constituted IEP Team to review Student's evaluation results and develop Student's 2020 IEP. *Interviews with Special Education Teacher and Facilitator.* The IEP Team spent several hours discussing the results of Student's evaluation in depth. *Id.* As a result, the IEP Team ran out of time on April 28 to discuss Student's IEP and agreed to reconvene on May 5. *Id.*

44. In the interim, on May 3, Parents emailed Facilitator to request an updated copy of the Evaluation Report and emphasized their outstanding concerns regarding the draft 2020 IEP. *Exhibit J*, pp. 33-34. Facilitator responded with a final copy of the Evaluation Report. *Id.* at pp. 38-39.

45. Student's IEP Team met again on May 5 to review, revise, and finalize Student's IEP. *Interview with Facilitator.*

46. Together, the meetings on April 28 and May 5 lasted nearly seven hours. *Response*, p. 3. Due to the COVID-19 pandemic, both meetings were held virtually. *Interview with Special Education Teacher.* Participants connected to the virtual platform primarily via video (with at least one individual participating via phone). *Id.* All participants had the ability to speak (even if they chose not to). *Id.*

47. Parents and their attorney attended both meetings. *Interview with Parents; Exhibit B*, p. 3. Throughout both meetings, Parents spoke freely, expressing their concerns and offering suggestions. *Interviews with Facilitator, Parents, and Special Education Teacher.*

48. Specifically, Parents expressed concern with the level of supervision provided by the draft IEP. *Interview with Parents.* As noted above, Parents interpreted the language in the draft IEP to be offering Student a lower level of supervision than she received in Elementary School. *Id.* In Parents' eyes, a lower level of supervision endangered Student's safety and inhibited her ability to make progress on her goals. *Id.* Parents insisted Student's IEP require 1:1 supervision at all times. *Id.*

49. The District members of the IEP Team declined to include language requiring a 1:1 aide. *Interviews with Facilitator and Special Education Teacher.* Though the IEP's "constant adult supervision" language does not *require* Student to receive 1:1 aide, it allows Student to receive 1:1 assistance depending on her needs. *Id.* Both Special Education Director and Facilitator envision Student needing 1:1 supervision at times during the day but not all day. *Id.* For example, perhaps Student could travel from the special education classroom to a general

education classroom with another student with special needs and a member of the special education team. *Interview with Special Education Director.*

50. Ultimately, the District members of the IEP Team incorporated many of Parents' suggestions into the final versions of the Evaluation Report and the 2020 IEP. *See Exhibit Q*, pp. 2-28.

51. During the meetings, the IEP Team determined that Student was eligible for extended school year services ("ESY"). *Exhibit A*, p. 11. The IEP Team prepared a separate document outlining Student's ESY Plan ("ESY Plan"). *See Exhibit N*, pp. 2-5. Under Student's ESY Plan, she would receive a total of 600 service minutes for two "access skills" goals targeting Student's communication abilities. *Id.* This was a significant increase from the 180 service minutes Student received during ESY following the 2018-2019 school year. *Id.* at pp. 6-9.

G. Student's 2020 IEP

52. Student's 2020 IEP was finalized following the May 5 IEP Team meeting. *Exhibit B*, p. 2. District policy requires an IEP to be developed based upon the consideration of (a) the strengths of the child; (b) the input of the parent for enhancing the child's education; (c) the results of the initial or more recent evaluation of the child; (d) the academic, developmental, and functional needs; and (e) any applicable special factors (outlined in the policy). *Exhibit K*, pp. 6-7. Additionally, an IEP must contain a statement "identify[ing] the special education and related services and supplemental aids and services . . . that will be provided for the child." *Id.* at p. 8.

53. The IEP Team reviewed Student's present levels of performance, noting that Student met three of her four annual IEP goals from the previous year. *Exhibit B*, pp. 4-6. Each of Student's service providers shared informal observations regarding Student's recent performance. *Id.* With regard to communication, SLP noted Student's inconsistent performance during speech therapy and commented that Student requires "individualized intense effort to maintain meaningful engagement during speech sessions." *Id.* at p. 6.

54. Like the 2019 IEP, the 2020 IEP notes that Student's "significant limitations in cognitive functioning, motor skills, language skills, and visual impairment cause progress in all curricular areas to be significantly delayed." *Id.* at p. 6.

55. The "Parent Input" section of the IEP contains a bulleted list summarizing concerns raised by Parents in the documents emailed to Facilitator. *Id.* at p. 7.

56. The 2020 IEP contains eight goals targeting Student's vision, reading, math, communication, motor skills, and academic access skills. *Id.* at pp. 10-14.

- Goal #1: “When reminded, [Student] will independently place her white cane under the bench near her feet before eating and locate her cane after eating with a weekly average of 80% over 4 consecutive weeks.” *Id.* at p. 10.
- Goal #2: “Using speech of a low tech Augmentative Communication (AAC) device with verbal output and a highly motivating item, [Student] will combine 2-3 words to request an unreachable item (from an array of 3 or 4) with 75% accuracy over 3 consecutive sessions.” *Id.*
- Goal #3: “With set up and verbal cues, [Student] will grasp a tissue or cloth (without physical prompts) to wipe her face or nose [on] 4/5 opportunities on 3 data collections.” *Id.* at p. 11.
- Goal #4: “In order to identify bodily aches, pains or illness, [Student] will point to her own tummy, back, neck, arm(s) and leg(s) when asked with 70% accuracy over 2 consecutive sessions.” *Id.*
- Goal #5: “When [Student] is presented with a picture that has a familiar object within a highly complex background, she will verbally name or point to the object with 80% accuracy in 3/4 trials.” *Id.* at p. 12.
- Goal #6: “When presented with 2 pictures and asked ‘Show me . . .’ [Student] will demonstrate understanding, using different modalities (e.g.: facial expressions, eye gaze, pointing) on 4 out of 5 data collection opportunities.” *Id.*
- Goal #7: “When presented with two reinforcing items or activities (or pictures of items/activities), [Student] will independently select an item on 4 out of 5 trials.” *Id.* at p. 13.
- Goal #8: “When working with math manipulatives, [Student] will be able to count 1-3, using rote memory, three out of four times.” *Id.* at p. 14.

57. The increase from three goals to eight goals reflects the IEP Team’s consideration of Parents’ request to increase Student’s goals. *Interview with Special Education Teacher.*

58. The 2020 IEP provides that Student receive “[c]onstant adult supervision and support by special education staff throughout the school day in all school environments for safety, communication, academics, and access, to include but not be limited to transitions (e.g.: passing periods, school arrivals, dismissal, contact guard assists for transitions), feeding, and toileting.” *Id.* at p. 17.

59. Under the 2020 IEP, Student has 6.5 hours per day of direct “access skills” instruction from the special education team. *Id.* Once again, the IEP does not specify whether this instruction is provided inside or outside the general education classroom. *Id.*

60. In addition, Student receives 3 hours per month of direct speech instruction, 1 ½ hours per month of direct orientation and mobility, 1 hour per month of direct physical therapy, and ½ hour per month of direct occupational therapy. *Id.* Student also has one hour per week of direct instruction from a TVI. *Id.* Other than increases in orientation and mobility and TVI instruction, Student’s direct related services remain unchanged from the 2019 IEP. *Id.*; *Exhibit A*, p. 13. The IEP Team increased Student’s indirect services from all providers except the TVI (which remains unchanged). *Exhibit A*, p. 13; *Exhibit B*, p. 17. By increasing Student’s indirect services, the IEP Team sought to provide more services to Student without pushing the limits of Student’s stamina. *Interview with Special Education Teacher.*

61. Per the 2020 IEP, Student will spend 40% to 79% of her time in the general education classroom. *Id.* at p. 17.

62. Prior Written Notice—incorporated into the 2020 IEP—reflects Parents’ concern that “the level of supervision will decrease due to language change from previous IEP in service delivery statement.” *Id.* at p. 19. The District disagreed with Parents’ concerns, noting that “school staff believe that the level of supervision[,] despite the wording change, will be the same as previous school year.” *Id.*

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 did not fail to review and revise Student’s 2019 IEP to address the lack of expected progress toward annual goals, consistent with 34 C.F.R. § 300.324(b)(1).

The IDEA requires school districts to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances. *Andrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174, 580 U.S. ___, 137 S. Ct. 988, 999 (2017). The IDEA does not promise a particular educational or functional outcome for a student with a disability, but it does provide a process for reviewing an IEP to assess achievement and revising the program and services, as necessary, to address a lack of expected progress. *Id.* To that end, school districts have an affirmative duty to review and revise a student’s IEP at least annually. 34 C.F.R. § 300.324(b).

However, the IDEA’s procedures contemplate that a student’s IEP may need to be reviewed and revised more frequently to address changed needs or a lack of expected progress. *See* 34 C.F.R. §§ 300.324(a)(4)-(6), (b); *Andrew*, 137 S. Ct. at 994. The U.S. Department of Education confirmed a school district’s obligation to monitor progress and convene the IEP Team if progress does not occur:

The IEP Team also may meet periodically throughout the course of the school year, if circumstances warrant it. For example, if a child is not making expected progress toward his or her annual goals, the IEP Team must revise, as appropriate, the IEP to address the lack of progress. 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. *If a child is not making progress at the level the IEP Team expected, despite receiving all of the services and supports identified in the IEP, the IEP Team must meet to review and revise the IEP if necessary, to ensure the child is receiving appropriate interventions, special education and related services and supplementary aids and services, and to ensure the IEP's goals are individualized and ambitious.*

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

Applying this guidance to the facts present here, the SCO finds and concludes that the District was not obligated to review and revise Student's 2019 IEP to address Student's lack of progress. Everyone agrees that Student did not make progress at the level her IEP Team expected, but, due to her absences, Student did not receive all of the services and supports identified in the 2019 IEP. (FF #s 14-16, 30.)

Though Student made inconsistent progress on some of her 2019 IEP goals, Student did not technically meet any of those goals. (FF #s 24-28.) Under her modified schedule, Student lost at least 34% of her instructional time at Elementary School. (FF # 15.) This modified schedule accounted only for Student's preplanned private therapy appointments and did not account for medical appointments or illness. (*Id.*) Per District records, Student was completely absent on 12% of the instructional days during the 2019-2020 school year, further increasing Student's lost instructional time. (FF # 16.)

The SCO finds and concludes that Student's absenteeism negatively impacted her ability to make progress on her 2019 IEP goals. The SCO, in no way, criticizes Parents for choosing to utilize private therapy. By doing so, Parents sought nothing more than the best for Student. But the District cannot be expected to produce a year of progress when it has significantly less than a year of instructional time with Student. The inconsistency in Student's instructional time affected the District's ability to effectively measure Student's progress toward her annual goals and appropriately review and revise her 2019 IEP based on that progress monitoring.

However, though the District had no legal obligation to review and revise Student's IEP, this situation could have been improved had the District simply communicated with Parents. Neither Special Education Teacher nor any other District staff member spoke to Parents about the effect of Student's absences on her progress. Had the District initiated this conversation,

Parents could have tempered their expectations or discussed the possibility of revising Student's IEP.

Conclusion to Allegation No. 2: The District tailored the 2020 IEP to Student's individualized needs by adequately considering Parents' concerns for enhancing Student's education, Student's re-evaluation, and Student's academic, developmental, and functional needs. However, the District violated the IDEA when it failed to issue a proper Notice of Meeting for Student's IEP Team meetings on April 28, 2020 and May 5, 2020 and when it failed to adequately describe Student's special education and related services in her IEP.

The second allegation accepted for investigation suggests that the 2020 IEP was not tailored to Student's individualized needs for three reasons:

- (1) the District did not consider Parents' concerns for enhancing Student's education,
- (2) the District did not consider the recent evaluations of Student, and
- (3) the District did not consider the academic, developmental, and functional needs of Student.

This allegation specifically relates to the level of supervision to be provided in Middle School, the amount of Student's related services, and the amount of ESY services.

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.

Each of the inadequacies alleged by Parents is addressed individually below in light of these legal standards.

A. The IEP Team considered Parents' concerns for enhancing Student's education.

The IDEA's procedural requirements for developing a student's IEP are designed to provide a collaborative process that "places special emphasis on parental involvement." *Systema v. Academy Sch. Dist. No. 20*, 538 F.3d 1306, 1312 (10th Cir. 2008). To that end, the creation of an appropriate IEP must involve a "fact-intensive exercise . . . informed not only by the expertise of school officials, but also by the input of the child's parents or guardians." *Andrew F.*, 137 S. Ct. at 999.

The IDEA requires that parental participation be meaningful, to include carefully considering parents' concerns for enhancing the education of the child. 34 C.F.R. §§ 300.321(a)(1), 300.322, and 300.324(a)(1)(ii). Meaningful consideration occurs where the IEP Team listens to parental concerns with an open mind, exemplified by answering questions, incorporating some requests into the IEP, and discussing privately obtained evaluations, preferred methodologies, and placement options, based on the individual needs of the student. *O'Toole v. Olathe Unified Sch. Dist. No. 233*, 144 F.3d 692, 703 (10th Cir. 1998). Meaningful consideration does not require that a school district simply agree to whatever a parent has requested. *Jefferson Cnty. Sch. Dist. RE-1*, 118 LRP 28108 (SEA CO 3/22/18). But parental participation must be more than "mere form." *R.L. v. Miami-Dade Cnty. Sch. Bd.*, 757 F.3d 1173, 1188 (11th Cir. 2014). "It is not enough that the parents are present and given an opportunity to speak at an IEP meeting." *Id.*

An IEP meeting "serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to make joint informed decisions regarding the services that are necessary to meet the unique needs of the child." *Letter to Richards*, 55 IDELR 107 (OSEP 2010). "The IEP Team should work towards a general agreement, but . . . [i]f the team cannot reach agreement, the public agency must determine the appropriate services" *Id.*

The findings here do not support Parents' contention the IEP Team did not consider their concerns. Prior to the IEP Team meetings, Parents sent Facilitator numerous emails outlining their concerns and requesting changes to the draft Evaluation Report and draft IEP. (FF #s 40-42, 44.) The District members of the IEP Team considered Parents' requests and revised the draft Evaluation Report and IEP in response. (*Id.*)

Parents and their attorney attended both IEP Team meetings and were given an opportunity to express their concerns regarding the development of Student's IEP. (FF # 47.) District members considered Parents' suggestions with an open mind. (*Id.*) Ultimately, the IEP Team was unable to reach a consensus regarding some of the concerns raised by Parents—such as the use of a 1:1 aide and increased service time. (FF # 49.) In that situation, the IEP Team had to make a decision regarding the appropriate services for Student.

The final Evaluation Report and 2020 IEP evidence that the IEP Team did, in fact, consider Parents' concerns. (FF # 50.) For example, Parents requested that the IEP Team increase Student's goals. (FF # 42.) The 2020 IEP contains eight goals, an increase from the three goals in the original draft. (FF #s 56-57.) Parents' request for 1:1 supervision remains in the "Parent Input" section of the 2020 IEP and in the Prior Written Notice incorporated into that IEP. (FF #s 55, 62.)

Here, Parents' participation was more than mere form; Parents truly participated in the IEP development process even if the District declined to adopt Parents' highest priority request.

Parents' concerns were heard. The SCO reaches this conclusion despite the District's failure to provide Notices of Meeting for the April 28 and May 5 IEP Team meetings.

The District issued a Notice of Meeting for March 17, 2020. (FF # 38.) Special Education Teacher and Parents communicated via email to reschedule the IEP Team meeting at a mutually agreeable date and time. (*Id.*) However, the District did not provide a Notice of Meeting for the April 28 meeting. (*Id.*) The District similarly failed to provide a Notice of Meeting for the continuation of the meeting held on May 5. (*Id.*) The District, therefore, failed to comply with the notice requirements of 34 C.F.R. §§ 300.322(a)-(b).

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, failure to comply with a procedural requirement amounts to a violation of FAPE only if the procedural violation (1) impeded the child's right to a FAPE, (2) significantly impeded the parent's opportunity to participate in the decision-making process, or (3) caused a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2); *Knable ex rel. Knable v. Bexley City Sch. Dist.*, 238 F.3d 755, 765 (6th Cir. 2001) (concluding a procedural violation can cause substantive harm where it seriously infringes upon a parent's opportunity to participate in the IEP process).

The District's failure to provide a notice of meeting for the April 28 and May 5 IEP meetings could have deprived Parents of an opportunity to meaningfully participate in those meetings. However, the meetings were scheduled based on Parents' availability and Parents were able to attend and participate in both meetings. (FF #s 38, 47.) Thus, this procedural violation did not result in a denial of FAPE under 34 C.F.R. § 300.513(a)(2). *See Carroll Cty. Pub. Sch.*, 23 IDELR 157 (SEA VA 1995) (finding that District's failure to provide notice was a procedural violation that did not result in denial of FAPE because parents received verbal notice and participated in meeting without objection).

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

In this case, it appears that the District's failure to provide proper notice of the IEP meetings was not systemic in nature but, rather, was the result of the District struggling under the weight of the COVID-19 pandemic. District policy plainly requires issuance of a Notice of Meeting. (FF # 39.) And, indeed, Special Education Teacher initially issued a Notice of Meeting for the meeting originally scheduled on March 17. (FF # 38.) These facts support a finding that this is not a systemic violation.

B. The IEP Team considered Student’s re-evaluation in the development of Student’s 2020 IEP.

In developing a student’s IEP, the IDEA requires the IEP Team to consider the most recent evaluation of the student. 34 C.F.R. § 300.324(a)(1)(iii). Here, the IEP Team devoted the entirety of the April 28 IEP meeting to Student’s Evaluation Report. During this meeting, the IEP Team thoroughly reviewed the Evaluation Report.

Parents contend the substance of the Evaluation Report indicates that Student requires a 1:1 aide. The SCO disagrees. Nothing in the Evaluation Report expressly or implicitly suggests that Student needs a 1:1 aide. As emphasized by Parents, the “Health Summary” of the Evaluation Report describes Student as a “high fall risk” based solely on her medical diagnoses. (FF # 34.) Meanwhile, O&M Specialist and Physical Therapist positively describe Student’s ambulation. (FF # 35.) In their reply, Parents cite a report from Student’s private physical therapist to support Student’s need for a 1:1 aide. The SCO has not considered this report because it was written as part of this investigation and, thus, was not available to the District at the time of Student’s IEP Team meetings.

The SCO understands Parents concerns about what “constant adult supervision” will mean for Student in Middle School. According to the District, this terminology allows Student varying levels of supervision throughout the school day depending on her needs. (FF #s 49, 62.) This could even include a 1:1 aide if the District determines that Student’s needs warrant that level of supervision. (FF # 49.)

During this investigation, Student’s IEP had not yet been implemented. As a result, it would be premature for the SCO to determine whether the language used will afford Student adequate supervision. If Parents later find that Student is not receiving adequate supervision in Middle School, that is the time to address the issue.

C. The IEP Team considered the academic, developmental, and functional needs of Student in the development of Student’s 2020 IEP.

In developing an IEP, the IEP Team must consider the “academic, developmental, and functional needs of the child.” 34 C.F.R. § 300.324(a)(1)(iv). The instruction offered by an IEP “must be ‘specifically designed’ to meet a child’s ‘unique needs’ through an ‘individualized education program.’” *Andrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174, 580 U.S. ____ (2017), 137 S. Ct. 988, 999 (alteration in original) (quoting 20 U.S.C. §§ 1401(29), (14)). An IEP should take into account a “child’s present levels of achievement, disability, and potential for growth.” *Id.*

Parents advocated that the IEP Team failed to consider Student’s academic, developmental, and functional needs when the IEP Team declined to increase Student’s SLP service minutes. However, the SCO disagrees. The Findings of Fact indicate that IEP Team considered Student’s

needs in developing the 2020 IEP, even though her direct SLP service minutes remained unchanged from her 2019 IEP.

Student, admittedly, did not meet the communication goals in her IEP. (FF #s 24, 28.) These goals were ambitious for Student. (FF # 29.) These goals were particularly ambitious considering Student's modified schedule and that Student missed 25-50% of her SLP services due to absences. (FF #s 14-16.) Due to Student's modified schedule and frequent absences (*Id.*), an increase in Student's SLP service minutes would not have necessarily increased the amount of service minutes Student actually received. However, her IEP Team did increase indirect SLP service minutes to attempt to provide Student more speech services (by way of Special Education Teacher and the EAs) without taxing Student with more direct service time. (FF # 60.)

Additionally, Student's disability "significantly delayed" her progress in all curricular areas. (FF # 7.) Even if Student had attended School full time (and received a greater percentage of her SLP minutes), Student's rate of growth would be much slower than her non-disabled peers. (*Id.*) Student required "intense effort" to maintain engagement during speech sessions (FF # 53), suggesting that Student's stamina might prevent her from benefitting from increased speech services.

With the 2020 IEP, the IEP Team sought to target Student's communication skills in a new way by including an augmentative alternative communication ("AAC") device. (FF # 56.) The addition of this device indicates the individualization of the 2020 IEP based on Student's needs and the effort by Student's IEP Team to keep developing her communication skills. Additionally, in further recognition of Student's communication struggles, the IEP Team offered Student ESY services targeting two communication goals and significantly increased Student's ESY services for 2019-2020 compared to 2018-2019 (600 minutes versus 180 minutes). (FF # 51.)

Collectively, these Findings of Fact evidence the IEP Team's consideration of Student's academic, developmental, and functional needs, despite the IEP Team's decision not to increase Student's SLP service minutes.

D. The statement of Student's special education and related services in the 2020 IEP is too vague to satisfy 34 C.F.R. § 300.320(a).

The IDEA identifies the content required in an IEP. 34 C.F.R. § 300.320(a). Relevant here, an IEP must contain "[a] statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child." *Id.* § 300.320(a)(4). An IEP must also identify the "projected date for the beginning of the services and modifications . . . and the anticipated frequency, location, and duration of those services and modifications." *Id.* § 300.320(a)(7).

Under the 2020 IEP, Student receives 6.5 hours per day of direct “access skills” instruction from the special education team. (FF # 59.) The IEP does not specify whether this “instruction” is provided inside or outside the general education classroom, and it is unclear what instruction falls within this category. (*Id.*) As recently as 2019-2020, this “instruction” included any moment in which Student was being supervised by a member of the special education team. (FF # 22.)

Without more specification, Parents cannot determine how much time Student should be receiving or, once implemented, confirm that Student’s IEP is being properly implemented. Moreover, the 2020 IEP contains both a literacy goal and a math goal, yet the IEP contains no literacy or math instructional time. (FF #s 56, 60.) The 2020 IEP, as written, does not adequately inform Parents of the services Student will receive in Middle School. As a result, the SCO finds that the 2020 IEP violates 34 C.F.R. § 300.320(a).

The District’s failure to comply with this procedural requirement does not amount to a violation of FAPE. As of the date of this Decision, Student’s IEP will have been implemented for only a couple of weeks and, thus, the inadequate description has, in no way, impeded Student’s right to a FAPE or deprived her of an educational benefit.

The SCO also concludes that this procedural violation is not systemic in nature. Other than the description of Student’s “access skills” instruction, the 2020 IEP (and the 2019 IEP) adequately describe Student’s special education and related services. District policy, too, requires IEPs to require such statements. Here, the fluidity in which Student moves between the general education classroom and the special education classroom makes quantifying and describing her services more challenging, likely leading to the procedural violation. But none of the Findings of Facts indicates that this is a larger, systemic concern.

REMEDIES

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

- a. Failing to provide notice of the IEP Team meetings, in violation of 34 C.F.R. §§ 300.322(a)-(b); and
- b. Failing to provide an adequate statement of Student’s special education and related services in the 2020 IEP, in violation of 34 C.F.R. § 300.320(a).

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

1. By **October 1, 2020**, District shall submit to CDE a corrective action plan (“CAP”) that adequately addresses the violations noted in this Decision. The CAP must effectively address how the cited noncompliance will be corrected so as not to recur as to Student

and all other students with disabilities for whom the District is responsible. The CAP must, at a minimum, provide for the following:

- a. Training for Special Education Teacher on the requirements of 34 C.F.R. §§ 300.322(a)-(b) and the contents of this Decision, no later than **November 5, 2020**;
 - b. Evidence that this training has occurred must be documented (i.e. training schedule(s), agenda(s), curriculum/training materials, and legible attendee sign-in sheets, with roles noted) and provided to CDE no later than **October 14, 2020**. This training may be conducted in-person or through an alternative technology-based format, such as a video conference, web conference, webinar, or webcast.
 - c. Training materials for the above-described training must be submitted to CDE for review and approval **at least 14 days prior to the delivery of training**.
 - d. CDE will approve or request revisions to the CAP. Subsequent to approval of the CAP, CDE will arrange to conduct verification activities to confirm District's timely correction of the areas of noncompliance.
2. By **October 1, 2020**, the District must amend the statement of Student's special education and related services in the 2020 IEP to ensure compliance with 34 C.F.R. § 300.320(a).
- a. If Parents and the District agree to amend the 2020 IEP outside of an IEP meeting, the District shall submit evidence of this agreement and a copy of the amended 2020 IEP to CDE by **October 15, 2020**.
 - b. If the District convenes an IEP meeting with Parents to amend the 2020 IEP, it must do so at a mutually convenient time and setting. The District must provide proof that this IEP meeting occurred by submitting a copy of the Notice of Meeting, amended 2020 IEP, and any relevant PWN to CDE no later than 10 days following the IEP meeting.
 - c. If Parents do not respond to the District's efforts to amend the 2020 IEP by agreement or convene an IEP meeting by September 25, 2020, CDE will determine compliance with this remedy in accordance with 34 C.F.R. § 300.322.

Please submit the documentation detailed above to CDE as follows:

Colorado Department of Education
Exceptional Student Services Unit
Attn.: Beth Nelson
1560 Broadway, Suite 1100
Denver, CO 80202-5149

Failure by District to meet any of the timelines set forth above may adversely affect District's annual determination under the IDEA and subject District to enforcement action by CDE. **Given the current COVID-19 pandemic, 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. If either party disagrees with this Decision, the aggrieved party may file a Due Process Complaint, provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. See 34 CFR § 300.507(a) and Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 156, 46607 (August 14, 2006).

This Decision shall become final as dated by the signature of the undersigned SCO.

Dated this 3rd day of September, 2020.



Ashley E. Schubert
State Complaints Officer

Appendix

Complaint, pages 1-3

- Exhibit 1: 2020 IEP
- Exhibit 2: Evaluation Report
- Exhibit 3: 2019 IEP
- Exhibit 4: Health Care Plan
- Exhibit 5: Seizure Action Plan

Response, pages 1-13

- Exhibit A: 2019 IEP
- Exhibit B: 2020 IEP
- Exhibit C: Blank
- Exhibit D: Evaluation Report
- Exhibit E: Progress monitoring reports or data
- Exhibit F: Prior Written Notices
- Exhibit G: Requests for Parental Consent
- Exhibit H: Notices of Meetings
- Exhibit I: Grade reports and IEP progress reports
- Exhibit J: Email Correspondence
- Exhibit K: District policies and procedures
- Exhibit L: Identification of District Witnesses
- Exhibit M: ESY Services Guidance Manual from CDE Website
- Exhibit N: Student's ESY Plan information
- Exhibit O: Student's attendance history
- Exhibit P: State Complaints – Questions and Answers from CDE Website
- Exhibit Q: Highlighted versions of 2020 IEP and Evaluation Report
- Exhibit R: Progress Reports for Prior Years
- Exhibit S: Orientation and Mobility Severity Scale Rating

Reply, pages 1-19

- Exhibit 6: Progress Report
- Exhibit 7: After Visit Summary from medical appointment
- Exhibit 8: Report from medical appointment
- Exhibit 9: Letter from private physical therapist
- Exhibit 10: Email correspondence with District
- Exhibit 11: Decision in State Complaint 2007:517
- Exhibit 12: Decision in State Complaint 2018:514
- Exhibit 13: Excerpt from 2018 IEP
- Exhibit 14: Article regarding CVI
- Exhibit 15: Learning Media Plan

- Exhibit 16: Email correspondence with District

Telephonic Interviews:

- Special Education Facilitator: August 13, 2020
- Orientation and Mobility Specialist: August 13, 2020
- Speech Language Pathologist: August 13, 2020
- Director of Special Education: August 14, 2020
- Special Education Teacher: August 14, 2020
- Parents: August 17, 2020