

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

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**State-Level Complaint 2022:565  
Mountain BOCES**

**DECISION**

**INTRODUCTION**

On December 5, 2022, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> filed a state-level complaint (the “Complaint”) against a member district (“District”) of the Mountain BOCES (“BOCES”). The State Complaints Officer (the “SCO”) determined that the Complaint identified two (2) allegations subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153. Therefore, the SCO has jurisdiction to resolve the Complaint.

**RELEVANT TIME PERIOD**

Pursuant to 34 C.F.R. §300.153(c), the Colorado Department of Education (“CDE”) has the authority to investigate alleged violations that occurred not more than one year from the date the original complaint was filed. Accordingly, this investigation will be limited to the period of time from December 5, 2021 through December 5, 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 BOCES denied Student a Free Appropriate Public Education (“FAPE”) because BOCES:

1. Failed to properly implement Student’s IEP during the 2022-2023 academic year, specifically by failing to provide writing services as required by the IEP, in violation of 34 C.F.R. § 300.323.

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<sup>1</sup> 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 monitor Student’s progress on annual IEP goals and provide Parent with periodic reports on Student’s progress during the 2022-2023 academic year, in violation of 34 C.F.R. § 300.320(a)(3).

### **FINDINGS OF FACT**

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

#### **A. Background**

1. Student is a sweet and shy ten-year-old, who likes cats, comic books, and art. *Exhibit A*, pp. 1, 3; *Interviews with Parent, General Education Writing Teacher, and General Education Reading Teacher*. Student qualifies for special education and related services under the Specific Learning Disability category. *Exhibit A*, pp. 1, 18.
2. This investigation concerns the 2022-2023 academic year, during which Student attended 4th grade at a District elementary school (“School”). *Id.* District is a member of BOCES. *See id.* at p. 1; *Response*, p. 1. BOCES is responsible for providing FAPE to all IDEA-eligible children with disabilities attending a school in its members districts. ECEA Rule 2.02.
3. When classes started at School on August 25, 2022, Student’s January 27, 2022 IEP was in effect (the “2022 IEP”). *Exhibit I*, p. 1; *Exhibit A*, pp. 1-17.

#### **B. The 2022 IEP**

4. The 2022 IEP documented Student’s strengths, preferences, and interests, including that she is a hard worker and curious in class, and that she has a positive attitude and has grown in her ability to persevere with challenging tasks. *Exhibit A*, p. 3. The 2022 IEP also documented Student’s specific strengths and progress within various academic areas, such as reading, writing, and math. *Id.*
5. The 2022 IEP reviewed Student’s present levels of performance, documenting her progress toward annual goals and the data from her most recent evaluation. *Id.* at pp. 3-6.
6. The Student Needs and Impact of Disability section documented that, in math, Student needs to keep improving her number sense, as well as her multiplication and division skills. *Id.* at p. 7. Student can have trouble counting forward or backward from a given number, transitioning to a “decade number,” and differentiating between numbers in the teens and “decade numbers.” *Id.* Student reads word by word or in short phrases, and she needs to improve her oral reading fluency, as well as spelling words with the “silent ‘e’ rule.” *Id.*

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<sup>2</sup> The appendix, attached and incorporated by reference, details the entire Record.

7. Student can generate ideas for writing assignments and can transfer her thoughts to paper using simple sentences, sometimes adding supporting details without prompting. *Id.* at p. 3. Student generally remembers to use beginning capitalization and ending punctuation, particularly when she uses a graphic organizer, but she needs to work on independently writing a “well-constructed” paragraph which contains a topic sentence, supporting details, and a conclusion. *Id.* at pp. 3, 7.
8. The Parent/Student Input section contained input from Parent, including that she observed an improvement in Student’s learning since remote instruction ended, which Parent attributed to Student making connections with others and her increasing maturity. *Id.* at p. 8. Parent has seen an improvement in Student’s working memory, and Student is more interested in the writing process. *Id.* Student reported that her strengths included riding her bike and art, and that she would like to improve her reading skills. *Id.* at p. 7.
9. The 2022 IEP contained the following annual goals:
  - a. Goal No. 1 – Reading: “By her next annual review, when given a decodable passage at her independent reading level, [Student] will increase her oral reading fluency from 25 to 45 words per minute with 97% accuracy.”
  - b. Goal No. 2 – Math: “By her next annual review, when given 5 basic multiplication facts [Student] will solve the equations and create a visual representation improving from 50% correct to 90% correct.”
  - c. Goal No. 3 – Math: “By her next annual review, when given 5 basic division facts [Student] will solve the equations and represent the equation using manipulatives improving from 0 % correct to 90% correct.”
  - d. Goal No. 4 – Writing: “By her next annual review, [Student] will demonstrate her mastery of learned graphemes which may include short vowels, consonant digraphs, blends, nasals, CVCe words, other long vowels, R and L influenced, ambiguous vowels, and vowel teams with 90% accuracy on a monthly test of selected words.”
  - e. Goal No. 5 – Writing: “By her next annual review, when given a writing prompt [Student] will write a paragraph with a topic sentence, three supporting details, and a conclusion after completing a graphic organizer improving her score on the third grade writing rubric from a two to a three on ideas, conventions, and organization.”
  - f. Goal No. 6 – Social/Emotional Wellness: “By her next annual review, [Student] will practice and demonstrate assertive communication skills in real and simulated situations with peers as measured by teacher/staff report on 3 of 4 observed opportunities with adult prompting.”

*Id.* at pp. 8-11.

10. The 2022 IEP indicated Parent would be informed of Student’s progress toward annual goals through progress reports distributed at the same time as report cards, as well as at Student’s annual IEP review meeting. *Id.* at p. 8.
11. The 2022 IEP contained accommodations to help Student access general education, including access to speech-to-text technology, extended time on longer assignments, “chunking” of assignments and directions, providing visual resources, shortened assignments to help focus on mastery of skills instead of completion, alternative seating (“wobble seat”, “sit disk”, foot resistance bands), and auditory presentation of materials when the material is beyond Student’s reading level. *Id.* at p. 11.
12. The Service Delivery of the 2022 IEP provided for 90 minutes per day of direct, specialized math, reading, and writing services (30 minutes each), as well as 120 minutes per month of direct psychological services. *Id.* at pp. 14-15. The 2022 IEP specified that Student would participate in the general education classroom for a portion of math, reading, and writing, and that Student would be pulled from the general education classroom for specialized math, reading, and writing instruction. *Id.* Parent did not raise concerns with the development of the 2022 IEP prior to or during this investigation, but the SCO cautions BOCES that specialized instruction should be in addition to, and not instead of, core programming (i.e., in this case if Student needs support in writing, she should not be pulled from general education writing instruction for her specialized writing instruction). *Consultation with CDE Content Specialist.*
13. The IEP Team determined it was appropriate for Student to be in the general education classroom 40 to 79 percent of the time. *Exhibit A*, p. 16.

### **C. The August 28, 2022 Introductory Meeting**

14. On August 24, 2022, the day before classes started at School for the 2022-2023 academic year, Director of Special Education emailed Parent to schedule an introductory meeting. *Exhibit K*, p. 1.
15. On August 29, 2022, Parent, Director of Special Education, BOCES special education coordinator, School Psychologist, the principal of School (“Principal”), and Student’s special education case manager (“Case Manager”) met to review Student’s schedule and discuss the plan for the 2022-2023 academic year. *Interviews with Parent, Director of Special Education, and Case Manager.*
16. Parent was informed that during the 2022-2023 academic year, Student would have different general education teachers for reading, math, and writing. *Id.* Case Manager indicated that she would pull Student from each of those classes for 30 minutes of specialized instruction/support each day, and she provided Parent with information on the curriculum

that she would use to support Student. *Id.* Parent shared information on Student’s progress at home and with her outside tutor. *Id.*

17. During the meeting, several different methods of communication were discussed as a means of keeping Parent apprised of Student’s progress at School. *Id.* Parent requested that staff send home the work that Student did in class so Parent could support Student on the same assignments at home (Parent is a reading/writing teacher and teaching coach). *Id.* Case Manager agreed to create a binder to send home the work that Student completed during her 90 minutes of daily specialized instruction. *Id.* This agreement was not included in the 2022 IEP. *See Exhibit A, pp. 1-17.*
18. To communicate with Student’s teachers, Parent was given access to a phone application called the “Remind Me App” (the “App”). *Interviews with Parent, Case Manager, General Education Reading Teacher, and General Education Writing Teacher.* All parents of fourth grade students at School were given access to the App, and the “fourth grade team” at School used the App to send group messages to parents with a photo of the agenda showing what students would work on in each content area. *Interviews with General Education Reading Teacher and General Education Writing Teacher.* Parent could also create individual or group chats on the App to send messages directly to teachers. *Id.*

#### **D. Parent’s Concerns Regarding Communication and Student’s Writing Services**

19. Following the August meeting, Case Manager sent a binder of Student’s work home with Student on a weekly basis. *Interviews with Parent and Case Manager.* The binder contained sections for math, reading, and writing. *Id.* Although the binder came home regularly with assignments that Student worked on during reading and math, Parent became concerned that there was only one writing assignment sent home during the month following the August meeting (a graphic organizer completed by Student). *Interview with Parent.*

#### **Parent’s September 29, 2022 Email**

20. On September 29, 2022, Parent emailed Student’s teachers and service providers expressing concerns about communication and collaboration among the staff working with Student. *Exhibit K, p. 6.* Parent made multiple requests, to include that School Psychologist collaborate with classroom teachers to ensure that classroom teachers could use similar social/emotional strategies with Student, and that staff communicate daily learning targets for Student with Parent (as well as whether Student was able to meet them). *Id.*
21. In her email, Parent indicated that she messaged General Education Writing Teacher and Case Manager on the App, because she had not received updates as to what Student was working on in writing. *Id.* at p. 6. Case Manager responded that, “[t]oday we completed the lessons in 5.3, (VCE) and will assess the phonics skills (nonsense VCE)” and that General Education Writing Teacher would be supporting Student with spelling. *Id.* General Education Writing

Teacher responded and said the class would begin spelling groups, and Student's small group would be working on "R controlled vowels" because according to a "PALS" spelling assessment, that is where Student needs focused instruction. *Id.* Parent indicated that she administered a spelling test on Student at home and found Student had already mastered spelling in "VCE", so she requested that Student work on "bossy r" instead. *Id.*

22. Parent also made extensive requests for specifics around the curriculum staff were using to teach Student in reading, math, and writing, to include information about the next skill Student would be working on during reading and writing instruction, which teacher would be providing instruction around the "bossy r" curriculum, what the spelling groups looked like in the classroom, whether there would be reading and dictation around "bossy r", what prompt Student was given to come up with ideas on a narrative writing assignment, whether Parent could have a copy of the draft of the narrative essay Student was working on, which accommodations General Education Writing Teacher used to support Student in getting ideas down on paper, and an explanation of how the math skills Student was working on aligned with 4th grade standards. *Id.* at pp. 6-7.

#### Principal's October 4 Response and Staff Meeting

23. On October 4, 2022, Principal responded to indicate that the staff working with Student would meet that day to discuss services and goals and collaborate on how to support Student, as well as how to communicate with Parent. *Id.* at pp. 8-9. Principal indicated these meetings would continue to occur monthly, and Principal would follow up after each meeting with an email to Parent, because Principal "thought it might be helpful to have it all in one email" given the number of staff included in Parent's September 29 email. *Id.*
24. On October 6, 2022, Principal sent Parent a follow up email containing detailed information about what was discussed at the October 4 meeting. *Id.* at p. 10.
25. In terms of communication with Parent, Principal indicated classroom teachers would send home pictures of Student's learning targets, and updates would be sent as instruction shifted. *Id.* Monthly newsletters would be sent out with the overall "Essentials and Learning Targets", and on Fridays, General Education Writing Teacher would send home Student's writing piece, scoring guide used, and notebook with the language and resources used in class. *Id.* Case Manager would send home a binder each day containing work that Student completed, and School Psychologist would add the strategy that she worked on with Student to the binder. *Id.*
26. In terms of instruction, Principal reported that Student's teachers and service providers reviewed Student's accommodations from the 2022 IEP to ensure everyone was aware of their responsibilities. *See id.* Principal provided specific information to Parent concerning what Student was working on in reading, math, and writing, both in general education and with Case Manager. *Id.*

27. Principal reiterated that Student's support team would continue to meet the first Tuesday of each month to make sure that staff were all collaborating around instruction, goals, and accommodations for Student. *Id.* Principal further indicated that if Parent had questions for the team, the team would discuss them at the meetings, and Principal would follow up after each meeting to inform Parent of what was discussed. *Id.*

Parent's October 10, 2022 Email

28. On October 10, 2022, Parent responded to Principal's October 4 email with extensive concerns about Student's writing services. *Id.* at pp. 11-12. Parent indicated that in the week following Principal's October 4 email, Student's writing notebook came home, but it was "clear that little to no accommodations are being used." *Id.* Parent indicated that for the first several entries, Student had no response or just one sentence. *Id.* Parent discussed support strategies that Parent used at home with Student, and indicated Student's teachers should be using those strategies, asking if Parent needed to model those strategies with teachers because "maybe they don't know enough about dyslexia and what accommodations should look like." *Id.*

29. Parent indicated General Education Writing Teacher sent home a packet of expectations, a grading rubric, an "incomplete" graphic organizer, and a one paragraph example of Student's writing. *Id.* Parent expressed concern that what General Education Writing Teacher sent home did not show Student's accommodations were being used. *Id.* Parent also indicated Case Manager sent home a document indicating that she was working with Student on "Compare and Contrast" writing, which was different than what General Education Writing Teacher was working on in class. *Id.* Parent expressed concern that Case Manager should be working with Student on the writing assignments from the general education writing class when she was providing services to Student. *Id.*

30. Parent reported that she worked extensively with Student over the weekend on the narrative essay assignment from writing class. *Id.* Parent expressed concern about the way the curriculum was being taught in General Education Writing Teacher's class and made specific requests about how the material would be taught, to include which/how graphemes should be taught and which words should be read by Student and placed into spelling lists. *Id.*

Parent's October 14, 2022 Email

31. On October 14, 2022, Parent sent Principal another email with additional concerns. *Id.* at p. 12. Parent indicated that she had been communicating daily with General Education Writing Teacher about Student's narrative essay. *Id.* Parent indicated she worked on a graphic organizer for writing with Student over the weekend, and that "from that graphic organizer and my teaching" Student came to School with the first two paragraphs of her essay written, with notes for a third paragraph. *Id.* Parent asked General Education Writing Teacher if

Student completed her rough draft in class, and was told “[n]ot today, she was copying the work that you guys did this weekend into her notebook” and “[s]he also spent some time doing that with [Case Manager].” *Id.* Parent indicated this showed Student did not receive any instruction on her narrative essay, and that Student was not receiving accommodations of a scribe or assistive technology (although a scribe is not listed as an accommodation in the 2022 IEP). *Id.*; *Exhibit A*, p. 11.

32. Parent said she expressed these concerns to General Education Writing Teacher, and that General Education Writing Teacher told Parent that General Education Writing Teacher met with Student one-on-one to talk more about her ideas, and Student was present for a lesson on creating an effective ending. *Exhibit K*, p. 12. Parent asked General Education Writing Teacher for “the product or work or exit ticket that showed [Student] understood the lesson or her meeting so that [Parent and Student] could work off of it at home,” but that General Education Writing Teacher did not provide any “evidence” that she was implementing accommodations to Student. *Id.*
33. Parent also requested that Case Manager send home all the work that Student had completed to support her narrative essay but indicated that the binder only came home with the graphic organizer that Parent worked on with Student over the weekend, along with Student’s rough draft. *Id.* Parent expressed concern that Case Manager “dictated” Student’s third and fourth paragraphs, which Parent claimed showed that Student did not receive any accommodations to help her write the essay. *Id.*
34. Parent renewed her objections with the way Student was being taught reading and writing, indicating that it was “clear” there was a “lack of knowledge around how the brain learns to spell, the science of reading, and dyslexia.” *Id.* Parent described General Education Writing Teacher and Case Manager’s teaching methods as “archaic” and expressed that, unless taught by Parent or her outside tutor, Student would not be successful in mastering “bossy r” spelling and there would be “zero evidence” for progress monitoring on her IEP spelling goal. *Id.*
35. Parent indicated Student would be taking a break for her mental health and would not be attending School the following week. *Id.* Parent further indicated that it was important to her to see “actual evidence” of accommodations and “products of [Student’s] work in all classes” to show that she was making progress and being supported. *Id.*
36. On October 24, 2022, Parent emailed Student’s teachers to indicate that she missed parent-teacher conferences, asking that teachers find time to speak with her even if just by phone. *Id.* at p. 26. Parent indicated that, during the week Student was absent, Parent helped Student complete her personal narrative essay assignment, and suggested that General Education Writing Teacher and Case Manager look at Student’s final draft and see examples of the “scaffolded lessons” which Parent used with Student at home. *Id.* Parent expressed concern



that there was no communication on the App or work sent home during the week Student was absent. *Id.* at pp. 26-27.

37. On Saturday, October 29, 2022, Parent emailed Case Manager and requested an IEP meeting for Student. *Id.* at p. 28. Case Manager responded the following Monday and indicated she would coordinate with staff to find a date to meet. *Id.*
38. On November 4, 2022, Principal emailed Parent an update from the November staff meeting regarding Student. *Id.* at p. 34. Principal indicated staff discussed the plan for the next month, and reviewed Student's accommodations. *Id.* Principal provided a short update on what Student was doing in math and writing, and indicated the monthly meetings were beneficial in making sure all staff were "on the same page" for Student. *Id.* Principal acknowledged that the update was not as detailed as she would like but indicated she would be creating a "standard form" to use each time to capture "all communication from the team." *Id.*

#### **E. The November 8, 2022 IEP Meeting**

39. On November 8, 2022, a properly constituted IEP Team met to review the 2022 IEP and discuss Parent's concerns. *See Exhibit A*, pp. 19-30; *Exhibit C*, p. 3. At Parent's request, all of Student's "core" general education teachers (reading, math, and writing) attended the meeting, along with Director of Special Education, School Psychologist, and Principal. *Interviews with Parent, Director of Special Education, Case Manager, General Education Writing Teacher, and General Education Reading Teacher; Exhibit K*, p. 28.
40. The IEP Team updated the 2022 IEP to reflect Student's present levels of academic achievement and functional performance, to include new observations of her progress in math, reading, and writing, as well as input from Parent. *See Exhibit A*, pp. 3-8, 20-21.
41. The IEP Team reviewed Student's annual goals and adjusted several of them. *Id.* at pp. 8-11, 22-24. For example, Goal No. 1 (which targeted reading) was updated for Student to increase her oral reading fluency from 33 to 48 words per minute (her previous goal was to increase her oral reading fluency from 25-45 words per minute). *See id.* at pp. 8, 22.
42. Parent expressed concern with Goal No. 5. *Interviews with Parent, General Education Writing Teacher, Case Manager, and Director of Special Education*. Goal No. 5 was developed to assess writing skills through use of a third-grade writing rubric, but the rubric was only designed to evaluate longer writing assignments. *Id.*; *see Exhibit A*, p. 10. Third and fourth grade students only complete a few long writing assignments each year, so Parent expressed concern about the frequency of progress monitoring toward the goal. *Interviews with Parent, General Education Writing Teacher, Case Manager, and Director of Special Education*.
43. To address Parent's concerns with Goal No. 5, a new annual writing goal was developed:

- a. Goal No. 3<sup>3</sup> – Writing: “When given a prompt/question, [Student] will respond by using RAP, (restating the question, answering the question, providing citation/evidence/[ ]expansion) as evidenced by her responses in her reading[ ]/writing/math classes 9/10.”

*Exhibit A*, p. 23.

44. The accommodations and service delivery from the 2022 IEP remained the same. *See id.* at pp. 11, 14, 25, 27.

#### **F. Parent’s Continued Concerns and Student’s Withdrawal from School**

45. Following the November 8, 2022 IEP meeting, Parent continued to express concerns with communication and the content of Student’s services. *Interviews with Parent, Director of Special Education, General Education Reading Teacher, General Education Writing Teacher, and Case Manager*. For example, on November 15, 2022, Parent emailed Case Manager and requested that Case Manager switch to a different lesson plan for Student, because Student was already demonstrating mastery over the graphemes contained in “lesson 5.5” and “lesson 5.6” during an assessment Parent administered at home. *Exhibit K*, p. 32.
46. Parent said that between November 14 and December 2, 2022, Student did not bring home any additional work on her essays, and Parent did not see any “evidence” of writing work in her notebook that she was bringing home daily from Case Manager’s sessions. *Reply*, p. 7.
47. On December 2, 2022, Parent emailed Principal and Director of Special Education to indicate there was “still very little evidence of [Student] producing work around writing in the classroom with [General Education Writing Teacher] and her RAP writing goals with [Case Manager].” *Id.* at p. 39. Parent indicated Student’s reading progress was “slow” and she did not understand why it would take a month to get through one grapheme. *Id.* Parent also indicated “there is evidence (most recent math worksheets) that [Case Manager] is currently working on math skills that [Student] has proven to have mastered in her October progress monitoring.” *Id.*
48. Parent indicated that Student’s general education math teacher regularly sent home a Learning Target, but General Education Writing Teacher and General Education Reading Teacher only sent home Learning Targets on five days following Principal’s October 6 email. *Id.* Parent said Student seldomly came home with writing work, and her RAP journal was mostly incomplete. *Id.* Parent acknowledged receipt of the November monthly newsletter and indicated staff were responding to her messages but expressed concern that there was no progress monitoring reflected in Student’s RAP journal following the IEP meeting less than a month earlier. *See id.*

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<sup>3</sup> Although the sequence of Student’s annual goals was changed as a result of revisions made to the 2022 IEP at the November 8, 2022 IEP Student still had six annual goals.

49. During interviews with the SCO, several staff members expressed frustration about communication with Parent. *Interviews with Case Manager, General Education Writing Teacher, General Education Reading Teacher, and Director of Special Education.*
50. General Education Writing Teacher indicated she communicated with Parent “much more” than with any other parent, and that Parent “asked for a lot” from staff. *Interview with General Education Writing Teacher.* Parent initially wanted daily updates on learning targets and goals, but that was “too much”, and weekly communications was the compromise. *Id.* General Education Writing Teacher said she often took Parent’s advice about Student’s instruction, but Parent made frequent and detailed requests, to include that Student not be tested on a specific word or specific rule. *Id.* General Education Writing Teacher also reported that Parent did not like the “way I did things” and would, at times, insult General Education Writing Teacher “as a person.” *Id.*
51. Case Manager reported that communication with Parent was “a little overwhelming.” *Interview with Case Manager.* Case Manager indicated she would frequently get a “ten paragraph email” from Parent, and that Case Manager would spend “a lot of time with other teachers splitting hairs” about how to respond. *Id.* Case Manager indicated there were occasions when she sent home a document informing Parent of what Case Manager did with Student, and Parent would take things Case Manager said out of context and “use them against” Case Manager. *Id.* As a result, Case Manager became “very careful” about communicating with Parent. *Id.* Case Manager indicated she sent home the binder with Student’s work every week, but there was not always something to send home for writing. *Id.*
52. General Education Reading Teacher reported that she communicated with Parent almost once a week on the App, and Parent often sent long communications. *Interview with General Education Reading Teacher.* General Education Reading Teacher indicated she offered several times to talk in person instead, but Parent never agreed to do so. *Id.*
53. Director of Special Education reported that written communication with Parent could get “distorted” and there were occasions when Parent would copy and paste a sentence that a teacher wrote out of context into emails she sent to Principal and Director of Special Education. *Interview with Director of Special Education.* As a result, some staff were “feeling accused and upset” and thus, staff began attempting to communicate with Parent in person or on the phone instead of in writing whenever possible. *Id.*
54. On December 6, 2022, Parent officially withdrew Student from School. *Id.* at p. 38. Parent’s concern is that BOCES seldomly provided “proof” of Student’s writing and that there is no evidence that Student received writing services as was required by the 2022 IEP, starting in August of 2022. *Interview with Parent.*

## **G. Implementation of the 2022 IEP (August through December 2022)**

### **Accessibility of the 2022 IEP**

55. Case Manager was Student's case manager during the 2022-2023 academic year, and thus, was responsible for ensuring that Student's teachers and service providers were aware of their responsibilities under the 2022 IEP. *Interview with Case Manager; Exhibit A, p. 30.*
56. Prior to the start of classes at School, Case Manager provided a snapshot of the 2022 IEP to all of Student's teachers, which included information about accommodations and annual goals. *Interviews with Case Manager, General Education Writing Teacher, and General Education Reading Teacher.* Case Manager also spoke with Student's former third grade teachers to obtain information about Student's progress toward annual goals during the 2021-2022 academic year. *Interview with Case Manager.*
57. Following the beginning of the year, Case Manager engaged in regular communication and collaboration with Student's teachers about Student's progress and the 2022 IEP. *Interviews with Case Manager, General Education Writing Teacher, and General Education Reading Teacher.* Starting in September 2022, the staff working with Student also met monthly to discuss Student, to review Student's accommodations, and ensure that staff working with Student were on the same page to "streamline" her services. *Id.* This is not something that BOCES did for all students with disabilities and it was not required by the 2022 IEP. *Interviews with Case Manager, General Education Writing Teacher, and Director of Special Education; see Exhibit A, pp. 1-17.*

### **Implementation – Student's Writing Services**

58. Parent's concern is that BOCES failed to implement the 2022 IEP by not providing Student with 30 minutes of required daily writing support. *Complaint, p. 5; Interview with Parent.*
59. General Education Writing Teacher, who was also Student's home room teacher during the 2022-2023 academic year, reported that during a typical day, Student's class would begin with "time to socialize," then go to "socials," and transition into writing once students returned. *Interview with General Education Teacher.* Student was present for the beginning of writing instruction (around 10-15 minutes), then Case Manager would pull her for specialized writing instruction for 30 minutes. *Id.* Following this, Student would return to the classroom for the end of the writing block and finish or work on remaining classwork for that day. *Id.*
60. General Education Writing Teacher indicated that Student would sometimes miss the main lesson due to her time with Case Manager, so General Education Writing Teacher would often work 1:1 with Student once she returned from working with Case Manager (Student struggled to work independently). *Id.* General Education Writing Teacher indicated she would meet

regularly with Case Manager about Student, and Case Manager would frequently work with Student on whatever Student was doing in the general education writing class. *Id.*

61. General Education Writing Teacher reported that she observed Student make progress with writing over the course of the year, and that her stamina and ability to produce more writing of better quality improved from the beginning of the year. *Id.* For example, Student was able to independently complete a creative writing activity using dice rolls to determine story elements (e.g., a “1” might be the monster, and “2” might be what the problem was). *Id.*
62. General Education Writing Teacher confirmed that Student was consistently pulled from her writing class each day by Case Manager throughout the 2022-2023 academic year. *Id.*
63. Case Manager reported that she pulled Student from class for a half hour each morning for writing, for a half hour for math a “little bit later,” and for a half hour at the end of each day for reading. *Interview with Case Manager.* Case Manager told the SCO that during the beginning of the year, she could not pull Student from class for writing on Tuesdays because Student’s class would go to “enrichment.” *Id.* To ensure Student still received 30 minutes of writing services each day, Case Manager extended time with Student on other days to ensure she still received the full amount of service minutes required by the 2022 IEP. *Id.*
64. In the beginning of the year, Case Manager worked on free writing assignments with Student to assess Student’s writing skills. *Id.* Once she became familiar with Student’s writing abilities, Case Manager began a writing program where she would work with Student on different writing skills, often using graphic organizers. *Id.*
65. Case Manager indicated, however, that around the end of September/beginning of October, Parent expressed concern that Student was not completing assignments in General Education Writing Teacher’s class because she was missing class due to pull-out time with Case Manager. *Id.* As a result, Parent asked Case Manager to focus on working on assignments from General Education Writing Teacher’s class rather than working on other material. *Id.* Parent confirmed to the SCO that she made this request. *Interview with Parent.*
66. Case Manager also provided the SCO with detailed examples of how she worked with Student on the writing goals from the 2022 IEP. *Interview with Case Manager.*
67. For Goal No. 4, although progress monitoring from the previous year showed Student mastered certain graphemes such as short vowel, consonant digraphs, and blends, Case Manager did not see evidence that Student was familiar with those graphemes, so she worked with Student on words containing those graphemes at the beginning of the year. *Id.* Student scored 65 percent correct on an assessment of those graphemes on September 22, 2022, and by October 22, 2022, scored a 100 percent. *Id.; Exhibit E, p. 108.*

68. For Goal No. 5, Case Manager had a list of sight words and an alphabet for Student, and Case Manager would work through graphic organizers with Student to generate ideas for writing using those resources. *Id.* Case Manager had a variety of graphic organizers available for Student to choose from in the special education room, and once Student had a complete writing piece, Case Manager would use a writing rubric to assess writing. *Id.* Case Manager reported that she regularly collaborated with General Education Writing Teacher to get her feedback as well. *Id.*
69. Although Parent did not raise concerns with Student’s reading services, General Education Reading Teacher confirmed to the SCO that Student’s class had reading in the afternoons, and Case Manager consistently pulled Student for 30 minutes of specialized reading instruction every day. *Interview with General Education Reading Teacher.* General Education Reading Teacher likewise confirmed that she was engaged in communication with Case Manager about the 2022 IEP and Student’s needs. *Id.*
70. Following the SCO’s records request, BOCES compiled a service log detailing the lesson plans from writing sessions with Case Manager using teacher lesson plans, notes, and work samples. *Id.* at pp. 45-48. The log was accompanied by a copy of Student’s daily academic schedule. *Id.* at p. 49. The log details daily specialized writing instruction provided by Case Manager during the 2022-2023 academic year, and the schedule shows Student received writing instruction each morning from Case Manager from 9:40 to 10:10 a.m. *Id.*
71. The SCO finds—based on the level of detail and similarities between General Education Writing Teacher, Case Manager, and General Education Reading Teacher’s accounts, references in the Record to Student receiving specialized writing services from Case Manager (e.g., Parent’s September 29 and October 10 emails, Principal’s October 6 email); and support for Case Manager and General Education Writing Teacher’s accounts in the service log and daily schedule—that Student was provide with 30 minutes of daily specialized writing support as required by the 2022 IEP.

#### Implementation – Writing Accommodations

72. Parent’s concern is that BOCES failed to provide accommodations required by the 2022 IEP during writing. *Complaint*, p. 5. Specifically, Parent’s concern is that there was no evidence of accommodations on writing work which was sent home, which demonstrates that Student did not receive accommodations during writing. *Interview with Parent.*
73. The SCO finds, however, in consultation with CDE Content Specialist, that the only accommodations contained in the 2022 IEP which would be readily discernable in Student’s written work are speech to text and visual resources. *Consultation with CDE Content Specialist.* Although Student’s work was often incomplete when provided to Parent, the 2022 IEP contained accommodations for shortened assignments so Student could focus on mastery of skills instead of completion. *Id.*

74. General Education Writing Teacher provided the SCO with numerous detailed examples of accommodations provided to Student during writing. *Interview with General Education Writing Teacher*. This included offering extended time, “chunking” assignments (breaking assignments down into smaller pieces), offering visual resources (such as graphic organizers), alternative seating (“foot pads” which is allowing Student to sit on the floor), offering breaks (the classroom as a “peace corner” where any student can take a break at any time), and shortened assignments. *Id.* General Education Writing Teacher also indicated that Student had a folder with different social/emotional strategies from School Psychologist so if Student was feeling frustrated, she could “point to something on the resource sheet” to help calm herself down. *Id.*
75. General Education Writing Teacher reported that she frequently collaborated with Case Manager about Student’s speech to text accommodation, but Student did not like using the program, and there were also occasional technical issues with the assistive technology laptop. *Id.* On occasions when there were issues with the laptop, General Education Writing Teacher and Case Manager would “pivot” to scribing for Student instead. *Id.*
76. Case Manager also provided examples of accommodations she provided to Student, such as visual resources (sight word bank, alphabet, graphic organizers), helping Student learn to use the speech to text program, and scribing for Student when she did not want to use the speech to text program, or the program was not working. *Interview with Case Manager*. Case Manager likewise confirmed that she was in regular contact with Student’s teachers to ensure that her accommodations were being followed. *Id.*
77. BOCES provided the SCO with photographs of various accommodations which were provided to Student, such as alternative seating (like the “sit disk”) and visual resources (such as the word bank and alphabet referenced by Case Manager). *See Exhibit F*, pp. 5-25.
78. The SCO finds—based on the level of detail and similarities between General Education Writing Teacher and Case Manager accounts, the support for their accounts in the written Record, and upon consultation with CDE Content Specialist—that Student received accommodations in writing as required by the 2022 IEP.

#### **H. Progress Reporting**

79. Parent’s concern is that BOCES failed to monitor Student’s progress toward her annual writing goals. *Complaint*, p. 4. Parent also indicates that she was never provided with required progress monitoring on Student’s annual writing goals. *Interview with Parent*.
80. BOCES’ position is that Student’s progress toward annual goals was appropriately monitored, and Parent was apprised of Student’s progress toward annual goals through a progress report generated in October of 2022, and at the November 8, 2022 IEP meeting. *Response*, p. 6;

*Interviews with Director of Special Education, Case Manager, General Education Writing Teacher, and General Education Reading Teacher.*

Progress Monitoring

81. Again, the 2022 IEP required BOCES to provide Parent with progress reports quarterly, and at Student’s annual IEP review meeting. *See Exhibit A, p. 8.*

82. BOCES provided the SCO with an October 2022 progress report detailing Student’s progress toward each of her annual goals. *Exhibit E, p. 107.* The progress report reflected Student’s progress toward her writing goals as of the first quarter of the 2022-2023 academic year:

a. Goal No. 4 – Writing: – 2022/23 1st Quarter – Progress Made

- i. “9/22- 13/20 (words) When given a list of words containing short vowel, consonant digraphs, nasals and blends [Student] correctly spelled 65% of words accurately.”
- ii. “10/22- 10/10 (words) [Student] spelled words with short vowels, consonant digraphs, blends, and nasals with 100% accuracy.”

b. Goal No. 5 – Writing: – 2022/23 1st Quarter – Progress Made

- i. “9/22 – [Student] scored a 2 on Ideas, 2 on Conventions, and 1.5 on Organization.”
- ii. “10/22 – [Student] scored a 2.5 on Ideas, 2 on Conventions, and 1.5 on Organization.”

*Exhibit E, pp. 108-109.*

83. BOCES also provided the SCO with supporting data used to generate the October 2022 progress report. *Id.* at pp. 21-38. Upon review, and upon consultation with CDE Content Specialist, the SCO finds the progress monitoring data demonstrates BOCES appropriately monitored Student’s progress toward her annual writing goals, and further, that the data shows Student made progress toward both writing goals. *Consultation with CDE Content Specialist.* Although Student began the year working on graphemes that she previously demonstrated mastery over during the 2021-2022 academic year, it is not unusual for a student to have lower scores on testing following summer break, and it was appropriate for Case Manager to tailor the instruction to her observations of Student’s skill level. *Id.*

Periodic Progress Reports to Parent



84. Case Manager indicated that she provided Parent with the October 2022 progress report when report cards went out to parents in October 2022. *Interview with Case Manager*. Although Parent indicated she never received this progress report, the SCO finds that Parent’s emails to BOCES contain specific information about Student’s writing progress toward annual goals (e.g., references to specific graphemes that Student was learning), as well as a specific reference to the “October progress report” (in the December 2, 2022 email). *Exhibit K*, pp. 6, 39. Parent also referenced Student’s progress toward one of her annual writing goals in the Complaint, alleging that Case Manager was not using data to drive instruction because “it took two months to get through two graphemes that [Student] had already shown mastery on with her outside tutor.” *Complaint*, p. 6.
85. Director of Special Education, Case Manager, General Education Reading Teacher, and General Education Writing Teacher all reported to the SCO that the IEP Team also reviewed Student’s progress toward annual goals with Parent at the November 8, 2022 IEP meeting, to specifically include Student’s writing goals. *Interviews with Director of Special Education, General Education Writing Teacher, General Education Reading Teacher, and Case Manager*.
86. The SCO finds—based on the similarities between Case Manager, Director of Special Education, General Education Writing Teacher, and General Education Reading Teacher’s accounts, Parent’s emails expressing knowledge of Student’s progress within writing, and evidence in the Record (the October 2022 progress report and supporting data) that BOCES provided Parent with information on Student’s progress toward annual goals through the October 2022 progress report in October of 2022, and at the November 8, 2022 IEP meeting, consistent with the 2022 IEP.

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: BOCES properly implemented Student’s IEP from August through December 2022, consistent with 34 C.F.R. § 300.323.**

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

A school district must ensure that “as soon as possible following the development of the IEP, special education and related services are made available to a child in accordance with the child’s IEP.” *Id.* § 300.323(c)(2). To satisfy this obligation, a school district must ensure that each teacher

and related services provider is informed of “his or her specific responsibilities related to implementing the child’s IEP,” as well as the specific “accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.” *Id.* § 300.323(d). Where the definition of a FAPE specifically references delivery of special education and related services consistent with an IEP, the failure to implement an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.19.

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

#### **A. Implementation of the 2022 IEP (August through December 2022)**

##### Parent’s Concerns

The 2022 IEP was in effect when classes started at School in August of 2022. (FF # 3). Parent’s concerns are that (1) Student was not provided with 30 minutes of required daily writing instruction, and (2) that Student was not provided with required accommodations during writing. (FF #s 58, 72).

##### Accessibility to Student’s Teachers

The SCO must first determine whether BOCES satisfied its obligation under 34 C.F.R. § 300.323(d). Here, Case Manager was Student’s special education case manager, and thus, was responsible for ensuring staff were aware of their responsibilities under the 2022 IEP. (FF # 55). In August of 2022, at the start of classes at School for the 2022-2023 academic year, Case Manager met with Parent and other staff to discuss Student’s needs and the plan for the 2022-2023 academic year. (FF #s 15). Case Manager also spoke with Student’s former third grade teachers to better understand Student’s progress toward her annual goals. (FF # 56).

Following the introductory meeting with Parent, Case Manager provided a snapshot of the 2022 IEP to all staff working with Student, and thereafter engaged in regular communication with Student’s teachers. (FF # 56). Starting in September, Case Manager also met monthly with Principal and Student’s teachers to review the accommodations from the 2022 IEP and discuss Student’s progress/needs. (FF # 57). Student’s teachers and service providers were likewise

included in Student's November 8, 2022 IEP meeting at Parent's request, ensuring that they were aware of any changes that were made to the 2022 IEP. (FF # 39).

For these reasons, the SCO finds and concludes that BOCES ensured teachers and service providers working with Student were informed of their responsibilities under the 2022 IEP, consistent with 34 C.F.R. § 300.323(d).

### Writing Instruction/Support

The 2022 IEP provided for 30 minutes per day of direct specialized writing instruction/support outside the general education classroom. (FF # 12). The SCO finds that the evidence in the Record supports that the BOCES implemented the 2022 IEP with respect to writing instruction.

First, BOCES staff provided detailed, similar accounts to the SCO that Student received specialized writing instruction as required by the 2022 IEP. General Education Writing Teacher provided a detailed account of when Student would leave the general education writing class for services with Case Manager, and indicated Student was consistently pulled from class each day during writing. (FF #s 59-62). Case Manager likewise reported pulling Student for specialized writing instruction every day, although she acknowledged that she had to increase Student's daily service minutes during the beginning of the year to make up for times when Student was in "enrichment" on Tuesday mornings. (FF #s 63-68). Although Student's reading services were not at issue, General Education Reading Teacher likewise corroborated Case Manager's explanation of Student's daily schedule, lending further support to Case Manager's account. (FF # 69).

Second, the service logs provided to the SCO document daily specialized writing instruction from Case Manager. (FF # 70). Although not created contemporaneously, they document daily writing instruction/support during the 2022-2023 academic year and contain descriptions of what Case Manager did each day with Student during writing. (*Id.*). Student's academic schedule likewise shows that Student received specialized writing instruction for a half hour each morning, which further corroborates accounts from Case Manager and General Education Teacher. (*Id.*).

Third and finally, there is evidence that Student received specialized writing instruction/support in the written Record. In her September 29 email, Parent indicated that Case Manager told Parent that Student completed lessons in "5.3, (VCE)" during specialized writing instruction. (FF # 21). Principal also provided Parent with information on Student's progress within writing during her time with Case Manager in the October 6 email. (FF # 26). In Parent's October 10 email, Parent expressed concern that documentation she received from Case Manager showed Student was working on different lessons with Case Manager than she was during the general education class, so Parent asked that Case Manager focus on the writing assignments from the general education writing class – a request that Case Manager followed. (FF # 29, 65).

For these reasons, the SCO accordingly finds and concludes that BOCES fully implemented the 2022 IEP in this respect.

However, the SCO is concerned that Student was pulled from core general education writing instruction to receive specialized writing instruction. (FF # 12). IEP development is beyond the scope of this investigation, but the SCO cautions BOCES against the practice of pulling a student from a core programming area of need for specialized special education services in the same area of need, as such a practice could result in an IDEA violation. *See (id.)*.

Indeed, IDEA requires an IEP to be tailored to the academic, functional, and developmental needs of the student. *See* 34 C.F.R. § 300.324(a). Similarly, in determining the placement of a student with a disability, school districts must ensure that consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs, and that he or she is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. *Id.* at § 300.116(d)-(e).

### Writing Accommodations

The 2022 IEP contained several writing-related accommodations which Parent indicated were not provided to Student during writing, including speech to text, shortened assignments, and access to visual resources. (FF # 11).

BOCES staff provided the SCO with numerous, detailed examples of accommodations provided to Student during writing. (FF #s 74-76). General Education Writing Teacher and Case Manager both indicated they were in frequent regular contact about Student's writing services, and all of Student's support staff were involved in monthly meetings which specifically reviewed the accommodations from the 2022 IEP. (FF #s 57, 75-76).

General Education Writing Teacher and Case Manager conceded that Student did not use her speech to text accommodation frequently, both because Student did not like using it and because there were occasional technical issues with the assistive technology laptops. (FF # 75). Nevertheless, Student was always permitted to use speech to text, and on occasions when the assistive technology was having issues, staff "pivoted" to scribing for Student to help her get her thoughts onto the page. *Id.*

In her emails to BOCES, Parent expressed concern that Student's writing work often came home incomplete, but one of Student's accommodations is for shortened assignments so Student could focus on mastery of skills rather than completion. (FF #s 11, 28). Although Parent was dissatisfied by the volume of writing work that came home with Student, Parent also indicated that the work that did come home at times included graphic organizers, demonstrating Student was provided with visual resources during writing. *See* (FF # 19). The progress monitoring data for Student's writing goals was likewise accompanied by visual resources (graphic organizers) that were provided to Student, demonstrating that Student was allowed visual resources as an accommodation, consistent with the 2022 IEP. *See* (FF #s 77, 83).

For these reasons, and in consultation with CDE Content Specialist, the SCO accordingly finds and concludes that BOCES fully implemented the 2022 IEP in this respect.

**Conclusion to Allegation No. 2: BOCES monitored Student’s progress toward annual goals and provided Parent with periodic reports on Student’s progress, consistent with 34 C.F.R. § 300.320(a)(3)(ii).**

Parent’s concern is that BOCES failed to monitor Student’s progress toward her annual writing goals, and that BOCES failed to provide Parent with periodic progress reports of Student’s progress. (FF # 79).

A parent’s right to participate in the development of their child’s educational program requires that they be regularly informed of progress toward IEP goals. *See M.C. v. Antelope Valley Union High Sch. Dist.*, 858 F.3d 1189, 1198 (Ninth Cir. 2017), *cert. denied*, 138 S. Ct. 556 (2017) (“[I]n enacting the IDEA, Congress was as concerned with parental participation in the *enforcement* of the IEP as it was in its *formation*.”) For that reason, school districts must periodically report a student’s progress toward meeting annual goals to his or her parents, in accordance with the schedule described in the IEP. 34 C.F.R. § 300.320(a)(3). In light of *Andrew F.*, OSEP provided additional guidance concerning the importance of sharing progress monitoring data with Parents:

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

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

In this case, the 2022 IEP required Parent to be provided with progress reports regarding Student’s progress toward annual goals each quarter with report cards, and at Student’s annual IEP review meeting. (FF # 10). BOCES’ first quarter ended in October of 2022. *See* (FF # 82).

In October of 2022, a progress report was generated detailing Student’s progress toward annual goals, including her annual writing goals. *See (Id.)*. The SCO reviewed the progress monitoring data used to generate the October 2022 progress report, and finds the data obtained was sufficient to show Student made progress toward her annual writing goals. (FF # 83). Parent was provided with the October 2022 progress report in October 2022, along with report cards. (FF # 86). Parent was also informed of Student’s progress toward her annual goals at the November 8, 2022 IEP meeting. (*Id.*).

Moreover, on several occasions, Parent's emails to staff demonstrate detailed knowledge of Student's progress in writing. (FF #s 21, 29-30, 34, 45, 47, 84). Parent's requests for changes to the lesson plans for Student and concerns around the specific graphemes or spelling words that were being taught show that Parent was aware of what Student was being taught in writing. See (*id.*). Parent's concerns about the time necessary for Student to learn specific graphemes likewise show that Parent was aware of Student's progress learning the material. (FF #s 47, 84).

At Parent's request, BOCES agreed to an extensive communication plan, to include sending home the binder of Student's work, messaging with teachers on the App, monthly newsletters, and updates following monthly staff meetings about Student. (FF #s 18, 27). Though Parent was unhappy with the fidelity in which staff adhered to this communication plan, it was not included in the 2022 IEP, and thus, beyond what was required by IDEA. See 34 C.F.R. § 300.320(a)(3). Ultimately, the evidence demonstrates that this plan was unsuccessful because Parent engaged in frequent, highly demanding communication requests, inappropriately took teacher's words out of context, and insulted staff. (FF #s 49-54).

BOCES provided Parent with the October 2022 progress report and with information about Student's progress toward annual goals at the November 8, 2022 IEP meeting, and for these reasons, the SCO finds and concludes that BOCES monitored progress toward annual goals and provided Parent with periodic progress reports, consistent with 34 C.F.R. § 300.320(a)(3)(ii).

### **REMEDIES**

The SCO concludes that BOCES did not violate the requirements of IDEA as alleged in the Complaint. Accordingly, no remedies are ordered.

### **CONCLUSION**

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

Dated this 3rd day of February, 2023.



Ross Meyers  
State Complaints Officer

## **APPENDIX**

### **Complaint, pages 1-8**

#### **Response, pages 1-9**

- Exhibit A: IEP(s)
- Exhibit B: PWN
- Exhibit C: NOM
- Exhibit D: Meeting Notes
- Exhibit E: Progress Report
- Exhibit F: Service Logs
- Exhibit G: Grades and Attendance
- Exhibit H: Evaluation Data
- Exhibit I: Academic Calendar
- Exhibit J: Policies and Procedures
- Exhibit K: Correspondence
- Exhibit L: List of Staff
- Exhibit M: Duplicate of Exhibit L
- Exhibit N: Verification of Delivery

#### **Reply, pages 1-10**

- Exhibit 1: Correspondence (Combined)
- Exhibit 2: Letter from Parent to General Education Teacher 1
- Exhibit 3: Student's Work (Combined)

#### **Telephone Interviews**

- Case Manager: January 10, 2023
- Director of Special Education: January 10, 2023
- General Education Teacher 1: January 10, 2023
- General Education Teacher 2: January 10, 2023
- Parent: January 12, 2023