

[REDACTED]
providing active voice and supporting civil rights
for people with disabilities

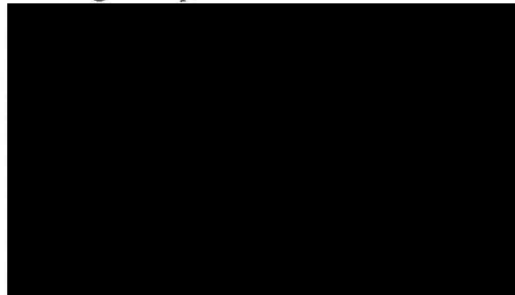


IDEA Part B State Complaints Officer
Colorado Department of Education
Exceptional Student Services Unit, Dispute Resolution Office
1560 Broadway, Suite 1100
Denver, CO 80202

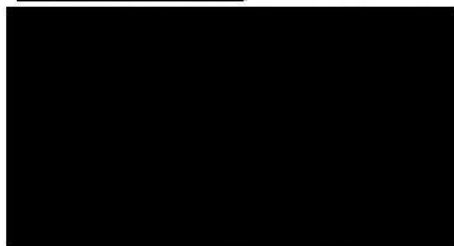


STATE COMPLAINT

Name of Person Filing Complaint:

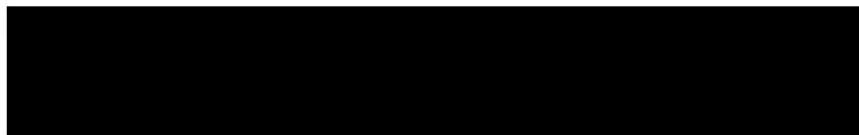


Student: [REDACTED] Attachment A
Parents: [REDACTED]



INTRODUCTION

The following complaint is filed by [REDACTED] on behalf of [REDACTED], parents of [REDACTED]. The [REDACTED] Schools [REDACTED] failed to provide the student a free appropriate public education. Specifically, the district failed to provide the student with speech/language services.

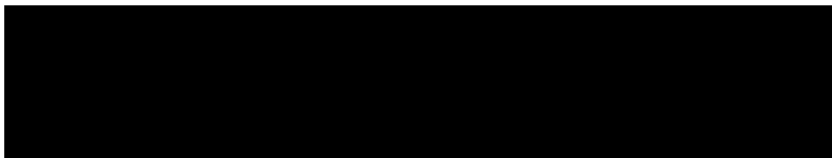


STATEMENT OF VIOLATION

██████████ (“District”) is an IDEA Part B program participant. The District is the local educational agency responsible for providing a free appropriate public education. The District has violated a requirement of Part B of the IDEA and its implementing regulations at 34 CFR Part 300. Specifically, it has violated 34 C.F.R. §300.101 (Free Appropriate Public Education) and §300.34 (Related Services). The violations of these sections is ongoing.

STATEMENT OF FACTS

1. ██████████ is “child with a disability,” as defined by the Individuals with Disabilities Education Act (“IDEA”).
2. ██████████ Schools is the local educational agency responsible for providing a free appropriate public education.
3. An Individualized Education Program (“IEP”) was developed each year according to statute.
4. Prior to his enrollment in ██████████ Elementary School, ██████████ was found to have a Developmental Delay and a Speech or Language Impairment and eligible for special education and related services under the IDEA.
5. ██████████ attended ██████████ and enrolled in his neighborhood school ██████████ Elementary School as a kindergarten student for the 2022-2023 school year.
6. The IEP identifies special education and related services including speech/language, psychological, occupational therapy services. Because ██████████ was moving from early childhood education to kindergarten the IEP defines services that would be provided May 9, 2022, through May 5, 2023, other services that would be provided May 9, 2022, through July 1, 2022 (or the close of the school year) and services that would be initiated July 1, 2022 and end May 5 2023. **Attachment B**
7. According to the IEP, the primary area of need is in relation to language skills (receptive, expressive and pragmatic language). ██████████ will use gestures paired with vocalizations to request or refuse items. ██████████ uses an augmentative communication device (Nova Chat). Much of the focus in speech/language services is to learn new vocabulary, support for learning to combine symbols as well as support adding new buttons or messages. The IEP requires that ██████████ will receive Specialized Instruction – Speech/Language specialized instruction for 120 minutes a month inside the general education classroom and 120 minutes



a month of instruction outside of the general education classroom as well as 360 minutes a year of indirect instruction.

8. October 7, 2022 the parent received a letter from the stating that they did not have a speech/language therapist assigned to the school. **Attachment C**. The district has not provided the family with an update regarding the status for hiring qualified staff.
9. The family enjoys a good working relation with school leadership and staff. [REDACTED] Elementary School has taken different actions to try to provide needed services including reaching out to [REDACTED] to contract for services.
10. The district has not hired or assigned a speech/language pathologist to work with students at [REDACTED] Elementary School; students have been without this service since August 2022 to date. The district admits that there is a list of schools where children are not receiving services (speech/language and special education). For the children at [REDACTED] Elementary this is the first year that there was an interruption in services, for other students this is the second year they have been without services. In order to maintain compliance with Indicator 11, the district has speech/language staff complete initial and reevaluations at schools that do not have an assigned provider. Although initial and ongoing eligibility is determined, eligible students do not receive services. The district reports that once staff is hired, that professional will meet with families to determine what, if any compensatory services will be provided.

FAILURE TO IMPLEMENT SPECIAL EDUCATION SERVICES

Under IDEA, FAPE means special education and related services that are provided in conformity with a student's IEP, which meets the content, development, and review requirements under state and federal law. 34 C.F.R. § 300.17. Implementation of a student's IEP is one method for meeting the FAPE.

Special Education Instruction— [REDACTED] failed to provide [REDACTED] with the speech and language services that his respective educational program required, resulting in a denial of FAPE.

RESOLUTION ATTEMPTS

The parent contacted the school and [REDACTED] leadership. The school reached out to [REDACTED] to ask about purchasing speech/language services. [REDACTED] is not able to provide services to students in the school setting. The parent sent emails and left voice messages for [REDACTED] special education leadership. Leadership has not been responsive to the parent's questions or concerns. [REDACTED] has discussed the

[REDACTED]

concerns regarding the delivery of speech/language services to [REDACTED] youngest students. [REDACTED] observed that some high schools and middle schools have a speech/language provider assigned, there has not been any interruption in services, whereas some preschool and elementary school students are not receiving services. The district reports that the bargaining unit agreement allows providers to bid for assignments, the district does not have the authority to re-assign a provider according to need. [REDACTED] would not suggest that middle and high school students be denied services, but the agency is concerned that the district is not able to frontload the system and reassign a provider to a different school to work with [REDACTED] youngest students with disabilities. The district reports that professional staff have agreed to evaluate a student at a different school; as such that district is able to show compliance with Colorado Department of Education, Exceptional Student Services Indicator 11.

It is important to note that some schools are coming up on a second year or third year where students have not received (special education) and related services designed to allow the student to benefit from special education. The district promises that students will be provided compensatory services, but such services are not discussed or offered until qualified staff is hired and assigned to the school building. [REDACTED] knows of other elementary (middle and high) schools in the same position as [REDACTED] such as [REDACTED], [REDACTED], [REDACTED]. There is a list of parents who would be happy to join this complaint. Despite ongoing discussion with District leadership, the issues set forth in this complaint remain unresolved.

The allegations set forth in this Complaint are not currently pending with any other federal, state, or local civil rights agency or any federal or state court.

REQUESTED RELIEF

[REDACTED] respectfully requests that Colorado Department of Education investigate this complaint to ensure that [REDACTED] comply with IDEA and that students with disabilities are not denied FAPE. Specifically, we request that CDE require or direct:

- A. [REDACTED] to compile a list of all students at [REDACTED] Elementary School and other [REDACTED] schools who did not receive special education and related services to which they were entitled under the students' IEP. For each student listed, [REDACTED] will offer, in writing, by email or mail, to the parent/guardian of each student an opportunity to have an IEP meeting to discuss whether the student was denied FAPE and determine compensatory services (special education and related services). The offer of compensatory services will be reduced to writing. [REDACTED] will provide the parent/guardian with the timeline for providing any compensatory services. Furthermore, when the student's IEP calls for a related service such as transportation, [REDACTED] will provide that service in order for the student to participate in compensatory services. If a student with a disability has since transferred out of [REDACTED] Elementary or [REDACTED], [REDACTED] should still determine whether compensatory education services are warranted and provide appropriate compensatory education

[REDACTED]

services. CDE should monitor the implementation of any compensatory education services.

- B. Colorado Department of Education, Exceptional Student Services Office monitor [REDACTED] compliance with IDEA.

Thank you for your consideration, and please contact me with any questions about the information in this Complaint.

Respectfully submitted on January 12, 2022

[REDACTED]

ATTACHMENT

Authorization and Request for Release of Records- [REDACTED]

EXHIBITS

Exhibit A: [REDACTED] May 8, 2022, Individualized Education Program and Behavior Intervention Plan

[REDACTED]

CERTIFICATE OF MAILING

I confirm that a complete copy of this complaint and all accompanying attachments were mailed to the school district.

Name: _____

Signature _____

Date: _____

