

NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Case No. C2122-11
February 14, 2022

This report does require corrective action. See pages 12-17.

This complaint was filed with the Special Education Division (SED) of the New Mexico Public Education Department (PED) on December 16, 2021, under the federal Individuals with Disabilities Education Act (IDEA) and the implementing Federal Regulations and State Rules governing publicly funded special education programs for children with disabilities in New Mexico.¹

Scope of Review and Authority

The PED SED administers the Federal Regulations and State Rules governing special education programming requirements for children with disabilities. The implementing regulations to the IDEA and the corresponding State rules require investigations into complaints regarding violations of these provisions. The PED has investigated the complaint and issues this report pursuant to 34 C.F.R. § 300.152 (a)(5) and 6.31.2.13(H)(5)(b) NMAC.

Conduct of the Complaint Investigation

The PED's independent complaint investigator's investigation process in this matter involved the following:

- review of the complaint and supporting documentation from complainant;
- review of the District's responses to the allegations, together with documentation submitted by the District at the request of the PED's independent complaint investigator;
- review of the District's compliance with federal IDEA regulations and state NMAC rules;

¹ The federal IDEA regulations are published at Title 34 of the Code of Federal Regulations (C.F.R.), Part 300. The New Mexico Public Education Department's special education rules are published at Title 6, Chapter 31, Part 2 of the New Mexico Administrative Code (6.31.2 NMAC). The state-level complaint procedures are set forth in the federal regulations at 34 C.F.R. §§ 151 to 153 and in the state rules at Subsection H of 6.31.2.13 NMAC.

- interviews with the Parent, Special Education Director, General Education Teacher, Bus Driver, and Elementary Principal;
- research of applicable legal authority.

Limits to the Investigation

Federal regulations and state rules limit the investigation of state complaints to violations that occurred not more than one year prior to the date the complaint is received. 34 C.F.R. § 300.153(c); 6.31.2.13(H)(2)(d) NMAC. Any educator ethics issues, or any alleged ADA or Section 504 disability discrimination issues, are not within the jurisdiction of this complaint investigation and, as a result, were not investigated.

Issue for Investigation

The following issue regarding alleged violations of the IDEA, its implementing regulations and State rules, are addressed in this report:

1. Whether the District failed to timely complete a comprehensive evaluation of Student, including assistive technology, to determine eligibility for special education services and develop and implement an IEP in violation of 6.31.2.10(D) NMAC and 34 C.F.R. § 300.111;
2. Whether the District failed to protect Student from bullying at school and on the bus in violation of 6.31.2.8 NMAC and 34 C.F.R. § 300.17;
3. Whether the District's actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE) to the Student in violation of 6.31.2.8 NMAC and 34 C.F.R. § 300.101?

General Findings of Fact

1. Student had been diagnosed with a mild to moderate hearing loss as an infant and had been wearing bilateral hearing aids since the age of eight months.
2. Last year Student had been homeschooled and never attended public school before the 21-22 school year.
3. Previously, Student had hearing and speech evaluations at the New Mexico School for the Deaf (NMSD).
4. Following those evaluations, it was recommended that Student would need special education services.

5. Parent contacted District on June 8, 2021, shared the information from NMSD and stated that Student wore hearing aids, had mild to moderate hearing loss, and would need assistance.
6. Parent was provided with a Developmental Case History to complete and return to school; Parent was told that they would determine what was needed when school began since school was already out for the summer.
7. The first day of school for the 2021-2022 school year was August 11, 2021.
8. Student was six years old and in kindergarten during the 2021-2022 school year.
9. When Parent brought Student to school the first day, the Parent reported that Teacher was not aware that Student had hearing aids or hearing loss. The District stated that information has been shared with the Teacher.
10. On August 30, 2021, Student came home from school without one of the hearing aids. Student did not know what happened to the hearing aid. After a search of the bus and school, the hearing aid was not found.
11. On September 1, 2021, Student failed a vision screening. Parent was requested to take Student to the eye doctor for follow up.
12. On September 2, 2021, a review of existing evaluation data (REED) meeting was held. Parent participated in that meeting.
13. Information from NMSD evaluations and the developmental checklist were reviewed. It was noted that Student was late on most developmental milestones, was easily distracted, had received speech and audiology services, had difficulty hearing sounds in words or finding the right words to communicate, and she had a limited vocabulary development. Student also had fine and gross motor needs.
14. The Teacher confirmed that Student struggled in school; was below grade level compared to peers. Student would mimic other students, copy from peers and was unable to work independently.
15. Student did not talk much in the classroom and she had a hard time expressing her needs. Student would repeat what was being said or would not answer.
16. Previous assessments indicated Student's vocabulary, receptive, and expressive language were within the severe range and Student would not engage in communication outside the familial circle.
17. Student was below average in pragmatic language skills and continued support in those areas was recommended. Social skills were impacted by language deficits.
18. There had been no change in hearing since 2019.
19. The results from the August 18, 2021 NMSD evaluations indicated that Student had a speech-language and hearing impairment.
20. The conclusion from the REED meeting was that a comprehensive special education evaluation was warranted. The REED form was signed on September 7, 2021. A prior

written notice (PWN) was not provided. Consent was not requested at that time because Student had failed the vision screen.

21. Parent was not informed about the reason for the delays in the evaluation.
22. When Student had hearing aids, Student would not play with them or remove them. A couple of times the teacher had to assist Student because the mask would get caught on the hearing aids.
23. On September 22, 2021 Student was evaluated and glasses were needed.
24. On September 28, 2021, Parent contacted Teacher by email and stated that Student would not be in school that day because Student was refusing to go to school. On several occasions prior to that email, Parent had reported that Student did not want to go to school because Student was afraid. Student would throw up in the morning before school.
25. On October 6, 2021, Teacher referred Student to the student assistance team (SAT). At that meeting, the next steps for the evaluation were discussed because more information was needed about Student and whether classroom supports were needed. Student was placed on a 504 plan to receive speech language services until a special education evaluation could be completed.
26. An IEP for speech and language services was not considered at that time.
27. On October 8, 2021, Student received glasses, but did not want to wear the glasses.
28. Student missed thirteen days of school the first quarter; many of the absences were due to sickness. As the school year progressed, the absences decreased.
29. Teacher talked to Student about school and why she was afraid. Teacher observed Student when on duty at recess. Teacher never observed, nor received reports from her colleagues that Student was being bothered. Student played with her friends during recess.
30. At parent-teacher conferences on October 22, 2021, the Teacher discussed Student's educational progress and struggles.
31. Student rode the bus home in the afternoon; Parents transported Student in the morning.
32. There were approximately ten students ages five to eleven that rode the bus home after school.
33. The afternoon bus ride was approximately one hour and fifteen minutes.
34. Other than the Bus Driver, there were no other adults on the bus. While driving, the Bus Driver could not see all the students, but only the top of the heads of the older students.
35. There was a camera on the bus, but the view from the camera did not include all of the interior of the bus.
36. On November 3, 2021, Student came home without the other hearing aid. Student reported a boy in blue took it.
37. New hearing aids were ordered, but it would take at least a month before the replacement aids were received.

38. On November 11, 2021, Student got off the bus and reported that another student squeezed her chest area. Parent checked and Student's chest area was red.
39. Parent asked Bus Driver about incident; he did not know anything about it. The incident was not reported to the administration at that time.
40. Parent knew which student it was and followed up with that student's parent.
41. One week later, November 18, 2021, a first-grade student reported that someone had pulled down Student's pants. The Bus Driver had not seen anything. Students were assigned seats with Student seated right behind the Bus Driver.
42. Students did not always stay in their assigned seats and all students on the bus were written up on November 18, 2021 for not staying in their seats.
43. Parent was informed about that incident the day it happened and discussed all of the bus incidents with the Bus Driver.
44. Another parent reported the incident to the Teacher who referred it to the Principal on November 19, 2021.
45. The Bus Driver, Transportation Director and Principal reviewed the bus camera on November 22, 2021 but did not see anything.
46. On November 23, 2021, the District contacted the Parents about the bus incident on November 18, 2021 and invited them to a meeting at school.
47. At that meeting, Parent reported to the District that Student did not want to go to school. Parent also reported that on November 3, 2021, Student said a boy in blue took her hearing aid and pinched Student. On November 11, 2021 a male student was pushing the student on the chest leaving red marks.
48. A further investigation regarding the pants incident was completed and a police report was filed on November 29, 2021; Parents were notified about the police report.
49. Consent for evaluation was obtained on November 22, 2022. At the time of the evaluation, Student was not used to wearing glasses, nor did Student have the new hearing aids, but the Diagnostician did not think it was appropriate to wait any longer and Parent reported that Student could see and hear if Student was up close.
50. The Teacher reported that Student's performance in the classroom was no different with or without glasses and hearing aids.
51. Student was evaluated in December, 2021. Cognitive and academic abilities were way below average. Student could not complete many of the tasks on the assessments.
52. An eligibility and IEP meeting were held on January 12, 2022 and Student was to receive special education services in reading, math, speech, and occupational therapy.
53. The January 12, 2022 IEP required that Student be provided with 200 minutes per week of specialized reading instruction, 200 minutes per week of specialized math instruction, 50 minutes per week of speech and language therapy, and 60 minutes per month of

occupational therapy. An FM system was recommended as assistive technology for Student.

54. Student's eligibility category was hearing impaired.

55. Since Student has been receiving special education services, Student is more willing to go to school, less throwing up. Parent was still concerned about what happens on the bus because Student was not able to verbalize.

Discussion and Conclusions of Law

Issue No. 1

Whether the District failed to timely complete a comprehensive evaluation of Student, including assistive technology, to determine eligibility for special education services and develop and implement an IEP in violation of 34 C.F.R. § 300.111 and 6.31.2.10(D) NMAC?

Districts have an ongoing affirmative duty to locate and identify students suspected of having a disability. Hearing impairment and speech and language are both areas of eligibility. 6.31.2.7 (B) (7) NMAC. Child find applies when a district suspects a child has a disability and is in need of special education services, even if the student is maintaining passing grades. 34 C.F.R. § 300.101 (c)(1). Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness. 34 C.F.R. § 300.8 (c)(5). A speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects a child's educational performance. 34 C.F.R. § 300.8(c)(11).

A district must look for potential special education eligible students; it cannot wait or require a parent to request an evaluation. *Compton Unified School District v. Addison*, 54 IDELR 71 (9th Cir. 2010), *cert. denied*, 112 LRP 1321, 132 S. Ct. 996 (2012). Districts need to be aware of red flags that would trigger suspicion that a student may be eligible for special education services. *Krawietz v. Galveston Independent School District*, 72 IDELR 205, 118 LRP 33954, 900 F.3d 673 (5th Cir. 2018). *See also Cincinnati City Schools*, 115 LRP 26069, 12 ECLPR 111 (SEA OH 2015).

Evaluations under the IDEA are conducted to determine if a student has a disability requiring specialized instruction because of that disability and what special education and related services that student needs. 6.31.2.13(F)(1) NMAC; 34 C.F.R. § 300.300 (c)(1). See also 34 C.F.R. §§ 300.304 -300.315 and 71 Fed Reg 46,548 (2006). Schools breaks such as summer vacation do not extend the time frame for conducting evaluations. *Letter to Reyes*, 59 IDELR 49 (OSEP

2012). See also 34 C.F.R. § 300.301 (c)(1). Once consent is obtained, a district has an obligation to conduct a full and individual evaluation at no cost to the parent. 6.31.2.10 (D) NMAC. An evaluation may be lacking if it does not provide the needed information to determine goals and develop appropriate supports and services a student may need. *A.W. v. Middleton Area School District*, 65 IDELR 16 (M.D. PA 2015). Failing to conduct a thorough evaluation and relying on existing data may be a denial of FAPE if the IEP team has insufficient information to determine student's needs and services. *New Mexico Public Education Department*, 115 LRP 12278 (SEA NM 2015). The school where the student's parents reside is responsible for child find activities even if the child is home schooled. *Return to School Roadmap: Child Find Under IDEA Part B*, 79 IDELR 140 (OSERS 2021).

Child Find was triggered when the District had a reason to suspect the Student has a disability and needed specialized instruction because of that disability. The District was put on notice on June 8, 2021, that Student has a disability and may need specialized instruction. Consent for evaluation should have been sought at that time. At the REED meeting on September 2, 2021, the District had the Developmental Case History and recent evaluations from NMSD. Although the first day of school was August 11, 2021, the review of existing data was not completed until September 2, 2021, in part, because the school needed time to determine if hearing loss and speech language deficits impacted Student's learning. At the end of the meeting all agreed Student needed a comprehensive evaluation. However, since Student had failed the vision screening, Parent was not asked at that time to provide consent for the evaluation. The Teacher referred Student to the SAT team on October 6, 2021 because Student was struggling in the classroom. Prior to this meeting, Parents had reported to the Teacher that Student often refused to come to school and would often throw up as they were leaving for school in the morning. Student was afraid of school. The evaluations that had been provided to the District indicated that Student had a speech language disability and would need speech and language services. Rather than develop an IEP for speech and language, Student was placed on a 504 plan for speech.

Even after all of these red flags, the District did not seek consent to evaluate for special education because Student did not have glasses. Student finally received glasses on October 8, 2021 but consent to evaluate was still not requested because Student needed time to adjust to wearing glasses and Student only had one hearing aid so the test results would be skewed because of vision and hearing loss. On November 3, 2021, Student's other hearing aid disappeared on the bus and was not found. Now, Student did not have any hearing aids and did not want to come to school. There were additional incidents involving Student on the bus on November 11, 2021 and November 18, 2021. Finally, on November 22, 2021 consent for

evaluation was completed and Student was finally evaluated for special education eligibility. Student was determined eligible under the category of hearing impaired and placed on an IEP.

The District had a Child Find obligation and had reason to suspect as early as June 8, 2021 that Student may be a student with a disability in need of specialized instruction. When the REED meeting was held on September 2, 2021, the team agreed an evaluation was warranted and would have been conducted immediately if Student had not failed the vision screen. Yet, the consent for evaluation was not sought until November 22, 2021. This was a Child Find violation.

As to Issue No. 1, the District is cited. Corrective Action is required.

Issue No. 2

Whether the District failed to protect Student from bullying at school and on the bus in violation of 34 C.F.R. § 300.17 and 6.31.2.8 NMAC?

Districts have an obligation to ensure that a student with a disability who is bullied continues to receive FAPE. *Dear Colleague Letter*, 61 IDELR 263 (OSERS/OSEP 2013). See also *Colton Joint Unified School District*, 117 LEP 52248 (SEA CA 2017) (Failure by the IEP team to address alleged teasing and aggression towards a kindergarten student deprived the child of FAPE). Both the Office of Civil Rights and United States Department of Education have stated that the effects of bullying can change a Student's educational needs requiring an IEP or 504 meeting to ensure student is receiving educational benefit. *Dear Colleague Letter*, 61 IDELR 263 (OSERS/OSEP 2013); *Dear Colleague Letter: Responding to Bullying of Students with Disabilities*, 64 IDELR 115 (OCR 2014). A decline in grades, emotional outbursts, behavioral interruption, or increase in absences may be manifestations of the effects of bullying. *Dear Colleague Letter: Responding to Bullying of Students with Disabilities*, 64 IDELR 115 (OCR 2014).

Student was placed on a 504 plan on October 6, 2021. By that time, the Teacher was aware that Student was afraid, refused to come to school, and would often throw up in the mornings before coming to school. Student's one hearing aid had disappeared even though Student did not have a history of playing with it or removing it. The other hearing aid disappeared on November 3, 2021 and Student reported a boy in blue took it. Two more incidents occurred on the bus on November 11, 2021 and November 18, 2021 involving Student. Although the school was not aware of the earlier incidents until November 23, 2021, there is nothing in this record to indicate the District has followed up with those earlier incidents or that they were reported at the time of the incidents by the Bus Driver.

Whether Student was bullied is a factual question that must be determined following an evaluation of the incidents. The November 18, 2021 incident has been referred to the police. It is not clear if the other incidents were investigated. There are some troubling incidents involving Student that have happened this school year. Student's hearing aids disappeared, even though Student was known not to play with them or remove them. There were two more incidents on the bus; only one was reported to the administration. Teacher reported that the parents had come to her multiple times to state that Student refused to come to school and was afraid. The District was aware of this in late September but did not determine the reason for Student's apprehension of attending school or how this impacted the Student's learning. Since Student has been on an IEP, some of the concerns have dissipated. The District had an obligation, when they were put on notice about Student's emotional concerns with school, to meet and determine whether this was the result of bullying, frustration with accessing her education in the absence of specialized instruction and services, or something else and to take steps to address those concerns.

As to Issue No. 2, the District is cited. Corrective Action is required.

Issue No. 3.

Whether the District's actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE) to the Student in violation of 6.31.2.8 NMAC and 34 C.F.R. § 300.101?

Students who are eligible for special education services are entitled to a free appropriate public education (FAPE). 34 C.F.R. § 300.101; 6.31.2.8 NMAC. Districts are obligated to provide a FAPE to students within their jurisdiction who have been determined eligible for special education services. 34 C.F.R. § 300.17. The determination of whether there has been a denial of FAPE requires consideration of two components: substantive and procedural. The question one must answer to determine the substantive standard is whether the IEP was "reasonably calculated to allow the child to make progress appropriate in light of the child's circumstances." *Andrew F. v. Douglas County School District. RE-I*, 137 S. Ct. 988 (2017). The Court in *J.L. v. Mercer Island School District*, 592 F3d 938, 951 (9th Cir. 2010), held that a procedural violation may be a denial of FAPE when it resulted in the loss of an educational opportunity, infringed on parents' opportunity to participate in the development of the IEP or deprived the student of an educational benefit. All circumstances surrounding the implementation of the IEP must be considered to determine whether there was a denial of FAPE. *A.P. v. Woodstock Board of Education*, 370 F. Appx 202 (2d Cir. 2010). A failure to provide behavioral and other supports that does not allow the student to receive educational benefit may be a denial of FAPE. Dear Colleague Letter, 68 IDELR 76 (OSERS/OSEP 2016).

The District was made aware by the Parent on June 8, 2021 that Student may be a child with a disability in need of special education and related services. Consent for an evaluation was finally requested and received on November 22, 2021. This delay was significant and resulted in a substantive denial of FAPE for Student when Student had to wait months for the special education services Student was entitled to receive.

There were also procedural violations on this record. The Parents were not informed about the reasons for the delay in seeking consent or why an IEP was not considered on October 6, 2021, instead of the 504 plan for speech. *Muller v. Comm. on Special Educ.*, 145 F.3d 95, 105 n. 9 (2d Cir. 1998) (explaining that proposed plan under section 504 of the Rehabilitation Act is not an adequate substitute when an IEP is required).

No PWN was provided after the REED meeting where it was determined that Student needed a comprehensive evaluation. These procedural violations did not rise to the level of a denial of FAPE.

As to Issue No. 3, the District is cited. Corrective Action is required.

Summary of Citations

Statutory and Regulatory Provisions	Citation
6.31.2.10(D) NMAC and 34 C.F.R. § 300.111	The District failed to timely complete a comprehensive evaluation of Student, including assistive technology, to determine eligibility for special education services and develop and implement an IEP.
6.31.2.8 NMAC and 34 C.F.R. § 300.17	The District failed to protect Student from bullying at school and on the bus.
6.31.2.8 NMAC and 34 C.F.R. § 300.101	The District’s actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE) to the Student.

Required Actions and Deadlines

By March 14, 2022, the District's Special Education Director must assure the PED in writing that the District will abide by the provisions of this Corrective Action Plan (CAP). The PED requests that the District submit all documentation of the completed corrective actions to the individual below, who is assigned to monitor the District's progress with the Corrective Action Plan and to be its point of contact about this complaint from here forward:

Dr. Elizabeth Cassel
Corrective Action Plan Monitor
Special Education Division
New Mexico Public Education Department
300 Don Gaspar Avenue
Santa Fe, NM 87501
Telephone: (505) 490-3918
Elizabeth.Cassel@state.nm.us

The file on this complaint will remain open pending the PED's satisfaction that the required elements of this Corrective Action Plan are accomplished within the deadlines stated. The District is advised that the PED will retain jurisdiction over the complaint until it is officially closed by this agency and that failure to comply with the plan may result in further consequences from the PED.

Each step in this Corrective Action Plan is subject to, and must be carried out in compliance with, the detailed procedural requirements of the IDEA 2004 and the implementing federal regulations and State rules. If the District needs brief extensions for the steps in the Corrective Action Plan, contact Deborah Dominguez-Clark, Director of the Special Education Division.

Please carefully read the entire CAP before beginning implementation. One or more steps may require action(s) in overlapping timeframes. All corrective action must be completed no later than February 14, 2023, and reported to the PED SED no later than February 28, 2023.
All documentation submitted to the SED to demonstrate compliance with the CAP must be clearly labeled to indicate the complaint number, **C2122-11, and step number.**

Corrective Action Plan

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED SED</u>	<u>Document Due Date</u>
1.	The District Special Education Director shall meet with the PED SED EA assigned to the District and the PED CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the District plans to take to ensure that the violations are corrected and do not recur. The District Director has the discretion to include other District administrators or personnel in this meeting. The District Director shall be responsible for setting up this meeting with SED.	February 21, 2022	Notes from meeting prepared by District	February 28, 2022
2.	The District Special Education Director will meet with the student’s special education administrator, special education teacher, related service personnel, school site administrator responsible for transportation and bullying, and transportation personnel to review the Complaint Resolution Report to ensure that those persons understand the complaint, the violations that were found, and the corrective actions that will be taken to address the violations.	February 28, 2022	Notes from meeting prepared by District	March 7, 2022

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED SED</u>	<u>Document Due Date</u>
3.	<p>The District shall conduct a Facilitated IEP meeting for Student. The FIEP meeting shall address:</p> <ul style="list-style-type: none"> • student’s needs and progress, • additional supports and services needed for student, • additional evaluations that are needed for student, and • a plan to ensure student is adequately supported and protected from bullying on the bus. <p>The Facilitator shall be independent of the District and shall be selected from the PED list of approved facilitators.</p> <p>The FIEP meeting shall be held on a date and time that is convenient for the parent. The parent will be provided with a copy of the IEP and PWN at the conclusion of the FIEP meeting.</p> <p>The District shall ensure that the FIEP team includes, but is not limited to, special education teacher, general education teacher, related services providers (PT, OT, SLP, AT, etc.), LEA representative, school site administrator responsible for transportation and</p>	March 4, 2022	<p>Invitation to IEP meeting, IEP, Prior Written Notice, Agenda for FIEP team meeting</p> <p>Confirmation of arrangement with Facilitator from PED approved list of Facilitators.</p>	<p>March 11, 2022</p> <p>February 21, 2022</p>

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED SED</u>	<u>Document Due Date</u>
	bullying policies, and transportation personnel.			
4.	<p>If, at the FIEP team meeting referenced in Step 3, the FIEP team determines that additional evaluations of student are needed, the District will promptly obtain consent for those evaluations and conduct those evaluations and provide evaluation reports to Parent within 30 days of the FIEP team meeting.</p> <p>After completion of any needed evaluations, the District shall conduct a follow-up FIEP team meeting for Student with the same Facilitator for the purpose of discussing the evaluation results and amending the IEP as needed.</p>	April 15, 2022	<p>Evaluation Reports with confirmation that reports were provided to parent</p> <p>Invitation to FIEP, new IEP, Prior Written Notice, and other IEP documentation regarding review of evaluations</p>	<p>April 22, 2022</p> <p>April 22, 2022</p>
5.	<p>The District shall provide compensatory education services to Student consisting of 300 minutes (5 hours) of speech and language therapy services, 1200 minutes (20 hours) of specialized instruction in reading, 1200 minutes (20 hours) of specialized instruction in math, and 120 minutes (2 hours) of occupational therapy services.</p> <p>The District shall develop the plan</p>	October 30, 2022	<p>Prior Written Notice containing plan for compensatory services</p> <p>Documentation of delivery/provision of compensatory education services, including logs of services that contain dates, times, types and amounts of service</p>	<p>April 22, 2022</p> <p>Monthly from date of compensatory services plan through October 2022</p>

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED SED</u>	<u>Document Due Date</u>
	<p>for compensatory education services at the Facilitated IEP meeting(s) referenced above in Step 3 and 4. If additional evaluations are determined to be needed, the plan for compensatory services can be deferred until the subsequent FIEP meeting in Step 4 above.</p> <p>The plan for compensatory services shall be documented in the PWN(s) for the Facilitated IEP meeting(s).</p> <p>These compensatory services are above and beyond the services required by Student’s IEP, including Extended School Year Services. The schedule for compensatory services should be developed in collaboration with the parent and can include the summer months.</p> <p>If the District, due to staffing or other limitations, is unable to provide the needed IEP and compensatory services as outlined in Student’s IEP and the compensatory services plan, the District, with Parents’ approval, will be required to contract with a private provider to ensure those and other needed services are provided.</p>		<p>provided (by minutes) and by whom and progress reports</p>	

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED</u> <u>SED</u>	<u>Document Due Date</u>
	If transportation is needed for provision of compensatory education services, it will be provided at District expense.			
6.	The District shall arrange to provide training to District staff (including special education teachers, special education administrators, related service personnel, educational diagnosticians and evaluators, and transportation personnel) on (1) child find, (2) transition from IDEA Part C to B, (3) conducting timely evaluations, and (4) requirements for Prior Written Notices. PED shall provide a trainer(s) to conduct this training. The District Special Education Director shall be responsible for setting this training up and communicating with the PED-designated trainer(s).	March 30, 2022	Confirmation of the date of the training Confirmation of attendees at the training (i.e., sign-in sheets) and plan for addressing provision of training to those staff not in attendance	March 4, 2022 April 7, 2022
7.	The District shall submit its policies and procedures for Child Find, evaluations, Prior Written Notice, and transition from IDEA Part C to B to SED for review and shall correct anything in those policies that is out of compliance with the IDEA and state special education laws and rules as requested by PED.	March 4, 2022 June 15, 2022	Policies and procedures submitted to PED for review. Correction of any policies as requested by PED	March 4, 2022

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED SED</u>	<u>Document Due Date</u>
8.	The District shall conduct training for all District staff (including administrators, teachers, paraprofessionals, office staff, transportation personnel) on the District and state-required reporting and investigation procedures for when student bullying may be suspected. The District shall include a discussion of bullying of students with disabilities and steps that should be considered, in addition to implementation of the bullying policy, to ensure that students with disabilities are safe from bullying at school and/or on the school bus (e.g., IEP team meetings, additional support, etc.)	April 15, 2022	Confirmation of date of training, attendees at the training (i.e., sign-in sheets) and plan for addressing provision of training to those staff not in attendance	April 22, 2022

This report constitutes the New Mexico Public Education Department’s final decision regarding this complaint.

Investigated by:

/s/ Michele Bennett

Michele K. Bennett

Independent Complaint Investigator

Reviewed by:

/s/ Debra Poulin

Debra Poulin, Esq.

Chief Counsel, Special Education Division

Reviewed and approved by:

A handwritten signature in blue ink that reads "Deborah Dominguez-Clark". The signature is written in a cursive style with a large initial 'D' and a long, sweeping underline.

Deborah Dominguez-Clark
Director, Special Education Division