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NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Case No. C2122-21
May 26, 2022

This report requires corrective action. See pages 13-14.

This complaint was filed with the Special Education Division (SED) of the New Mexico Public Education Department (PED) on March 29, 2022, 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 The SED 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;

¹ 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.

- review of the District’s compliance with federal IDEA regulations and state NMAC rules; and
- 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 CFR §300.153(c) and 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.

Issues for Investigation

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

1. Whether the District has special education teachers, educational assistants and paraprofessionals and substitute teachers working in the District’s Middle School who meet state certification requirements to teach or supervise special education students, as required by 6.61.6, 6.63.9 and 6.63.10.8 NMAC?
2. Whether the District has failed to have a licensed special education teacher in the Level D classroom in the District’s Middle School for longer than four consecutive weeks and, if so, whether the District also failed to so inform the parents of the students in that classroom, as required by 6.63.10.13 NMAC?
3. Whether the District failed to implement the IEP of a nonverbal student in the Level D classroom in the District’s Middle School by failing to provide the nonverbal student with a communication device, as required by 34 C.F.R. §300.323(c)(2) and 6.31.2.11(B)(1) NMAC?
4. Whether the District’s actions and/or omissions towards the students in the Level D classroom in the District’s Middle School resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC?

Issues not Investigated

The SED does not accept or investigate issues that are not related to a violation of the IDEA and state special education rules. Therefore, the following alleged issues set forth in the Complainant’s Complaint will not be investigated:

1. School Health issues related to fundraisers, emergency drills, and bullying of students by staff, and claims related to the failure of the District to have curricula aligned with the applicable New Mexico standards;

2. Allegations of a staff member abusing a nonverbal D-Level student; and
3. Allegations of unsafe work practices by the District such as aides and substitutes not being trained in blood-borne pathogens, nonviolent crisis intervention, reporting child abuse, or bus aide training or certification, and not allowing aides and substitutes a lunch break.

General Findings of Fact

1. The District is a local education agency under State law and, as such, is responsible for implementing the IEPs of special education students enrolled in the District.
2. The one identified student (Student) who is the subject of this complaint investigation is 14 years old and is currently enrolled in the 8th grade at a middle school in the District. Student resides with their parents within the jurisdictional boundaries of the District.
3. The Student is non-verbal and has been receiving special education services since he was 3 years old. The Student's current IEP was developed on January 7, 2022.
4. The Student currently receives his educational services in the "Level D" classroom in the Middle School. Level D is the identifier for the classroom in which students with the highest level of need are provided educational services for the majority of the school day. There may be other similarly situated students in the Level D classroom who are also the subjects of this complaint investigation.
5. The Student's January 7, 2022, IEP provides, in relevant part, as follows:
 - a. The Student is eligible to receive special education services under the eligibility classification of Autism, and the program recommended for the Student is "Self-Contained Life Skills."
 - b. The Present Levels of Academic Achievement and Functional Performance (PLAAFP) provide, in relevant part, as follows:
 - i. "The Student has a significant cognitive disability that affects intellectual functioning and adaptive behavior. The Student requires extensive, direct, and individualized instruction and substantial supports to achieve measurable gains in the grade-and age-appropriate curriculum."
 - ii. The SLP reported that the Student "continues to use AAC, gestures, eye gaze, pointing, facial expressions, and vocalizations as his primary form of communication. [The Student] increased his ability to follow routine directions with less support and is greeting others more frequently (even though not usually initiating). [The Student] has expanded his phrases up to five words using Proloquo2 with voice output. . . [The Student] broke his school iPad, strategies will need to be implemented to ensure this doesn't happen again since the loss of this iPad also means the loss of his ProloQuo2 communication app. Other picture

- supports will need to be used while figuring out a plan to reintroduce and reprogram a new iPad. Continue to expand on vocabulary use and knowledge.”
- iii. The Student “has been receiving speech language services for 60 minutes per week. [The Student] continues to demonstrate severe to profound delays in his overall language skills per an assessment administered on 12/14/2021. [The Student] is able to form phrases using ProloQuo2 on his iPad, he can understand simple directions and basic concepts, and his social skills are limited to mostly requesting and reading/responding with prompting from educators.”
 - iv. The Student “has a severe disability that requires a one-on-one staff member at all times. [The Student] is not able to perform grade level tasks and often requires two associates to work directly with him. [The Student] has limited cognitive abilities to perform classwork.”
- c. Under the Special Consideration section, the following as noted:
- i. Assistive Technology (AT): “[The Student] relies on picture symbols and a communication system, at this time based on behavior he will use a lower tech communication system, and as he shows capacity towards emotional and behavioral control, he will utilize higher tech options (iPad). He has shown the ability to use alternative communication strategies to express his needs and wants.”
- d. Annual Goals were developed for the Student, in relevant part, as follows:
- i. Behavior:
 - 1. “By 1/7/23, [the Student] will demonstrate improved ability to calm himself in order to effectively interact with people as well as objects in the home, school, and community with 3 out of 4 opportune situations.”
 - 2. “By 1/7/23, [the Student] will demonstrate improved ability to communicate needs to others by using a visual and picture cues to gain their attention and express his needs and wants in the moment 3 out of 4 times as measured by teacher observation.”
 - ii. Speech Language:
 - 1. “[The Student] requires assistance programming and using new vocabulary on his iPad and when using low tech visual supports. He relies on others to create picture symbols for him to use. [The Student] does not reciprocate or take turns without support during social interactions. [The Student] needs support to expand on vocabulary knowledge and categories. [The Student] will use Low and High Tech AAC to create phrases, build on vocabulary knowledge, categorize, and reciprocate 2-3 turns during communication attempts 80% of opportunities with minimal to moderate assistance/prompts as measured by clinician data and observation.”

- e. Statement of Special Education/Related Services:
 - i. Special Education Instruction by the Special Ed Teacher in the Special Ed Classroom for 27.25 hours weekly. “This instruction time may be provided through an EA under the supervision of a certified special education teacher”
6. On January 7, 2022, the District provided PWN to the Student’s parent regarding the IEP team meeting held on January 7, 2022. The January 7, 2022, PWN provides, in relevant part, as follows:
 - a. The IEP team discussed the fact that the Student would receive special education services for a full day in the Special Education Classroom, and the parent agreed with this proposal.
 - b. When discussing Special Considerations, the IEP team “decided to go to lower tech resources for communication due to some behavior issues with [the Student] and then reintroduce them at a later date. [The Student] follows a behavior intervention plan.”
 - c. When discussing the Least Restrictive Environment for the Student, the IEP team agreed that “[the Student] is considered a maximum level and is in a self-contained classroom all day. He does require support from an EA.”
 7. During the 2020-2021 school year the District indicates that it was following COVID-19 protocols regarding remote instruction in the District, but the students in the Level D classroom were provided the opportunity to receive in-person services at the School.
 8. The District’s documentation indicates that during the 2020-2021 school year, the Level D classroom in the Middle School was staffed with licensed educational staff as follows:
 - a. Four licensed Educational Assistants;
 - b. One part-time Special Education Teacher with a Pre-K-12 license;
 - c. The Special Education Director, who is a licensed special education teacher, provided some support in the classroom;
 - d. A licensed Speech Language Pathologist (SLP) provided services in the classroom; and
 - e. A licensed Occupational Therapist (OT) provided services in the classroom.
 9. The District’s documentation indicates that during the 2021-2022 school year, the Level D classroom in the Middle School was staffed with licensed education staff as follows:
 - a. Two Educational Assistants (EA) licensed as follows:
 - i. Level Three Pre K-12 Educational Assistant License, effective through June 30, 2023; and
 - ii. Level Two Pre K-12 Educational Assistant License, effective through June 30, 2027.
 - b. A series of three Substitute Teachers, licensed as follows:
 - i. August-September, 2021: Level Three Pre K-12 Educational Assistant License, effective through June 30, 2025;

- ii. September-December, 2021: Level One Pre K-12 Educational Assistant License, effective through June 30, 2022; and a Level One K-12 Substitute Teacher Certificate, effective through June 30, 2022; and
 - iii. January-March, 2022: Level One Pre K-12 Substitute Teacher Certificate, effective through June 30, 2024.
10. The District admits that during the 2021-2022 school year, there was no a Special Education Teacher in the Level D classroom. The District reports that it has posted the position of special education teacher throughout the 2021-2022 school year but has been unable to hire a special education teacher for the Level D classroom.
 11. The District's current Special Education Director is licensed as a School Psychologist and does not hold a license as a Special Education Teacher. The Special Education Director was granted an administrative license by the PED on April 18, 2022.
 12. The District's documentation indicates that the Student currently uses a picture exchange system to communicate his wants and needs.
 13. The Student does not currently use an iPad to communicate his wants and needs.

Discussion and Conclusions of Law

NMPED's Obligation to Investigate State Complaint's

During this investigation, the District informed NMPED and the complaint investigator that the parent of Student did not want her child to be involved in this complaint investigation in any way. The District initially requested that the complaint investigation be dismissed and later requested legal authority for the NMPED to continue with the investigation without the Student's parent's consent. The NMPED informed the District that the complaint investigation would continue and be completed, and that a complaint resolution report would be issued for the reasons described below.

The IDEA provides that any party may present a complaint with respect to any matter relating to the identification, evaluation, educational placement, or provision of FAPE to a disabled student. 20 U.S.C. §1415(b)(6). In the present matter, the Complainant is not a parent or guardian of the Student but is a former employee of the District. The parent of the Student in this complaint investigation has informed the complaint investigator that she does not support the complaint, or the allegations regarding the Student made in the complaint, and requests that the Student's name and information be removed from this investigation. The District supports this position. However, it is concluded that the PED, as the SEA of the State, is obligated under the Federal regulations and State Rules to fully investigate the relevant allegations set forth in the Complaint, even if the Student's parent does not support the allegations in the Complaint.

The Office of Special Education Programs (OSEP) of the U.S. Department of Education issued a Memorandum in 2013 which responded to the question of how an SEA resolves a complaint when an organization or individual, other than a child's parent, files a State complaint regarding a specific child:

An SEA is required to resolve any complaint that meets the requirements of 34 C.F.R. §300.153 filed by an organization or individual, including one from another State. This includes a signed written complaint alleging that a public agency has violated a requirement of Part B of the IDEA or the Part B regulations regarding a particular child with a disability, regardless of whether the State complaint has been filed by the child's parent or by an organization or individual other than the child's parent.

Questions and Answers on IDEA Part B Dispute Resolution Procedures, Question B-11, p. 21 (OSEP July 23, 2013). OSEP further provides that “[i]f a complaint is filed by an organization or individual other than the parent, parental consent must be obtained before an SEA may provide personally identifiable information about a child to a non-parent complainant as part of the complaint decision. 34 C.F.R. §§ 99.30 and 300.622; *Id.* at 21. A parent may certainly decide not to provide consent to release personally identifiable information to a non-parent complainant, or to otherwise participate in the investigation. However, this decision only prohibits the LEA and SEA's ability to disclose personally identifiable information, and potentially the final complaint resolution report, to the non-parent complainant. *See* 34 C.F.R. §§ 99.30 and 300.622. The parent's decision does not remove the obligation of the SEA to investigate an otherwise sufficient state complaint. In its Memorandum OSEP further states that “even if the SEA would be unable to issue a written decision to the complainant because of its personally identifiable nature, the SEA still must ensure that it resolves the complaint, issue a written decision that addresses each allegation in the complaint, and ensures timely implementation of its written decision, including, if appropriate, corrective actions to achieve compliance and remedies for the denial of appropriate services. 34 C.F.R. §§ 300.152(b)(2) and 300.151(b).” *Questions and Answers on IDEA Part B Dispute Resolution Procedures*, Question B-11, pp. 21-22 (OSEP July 23, 2013).

In this investigation, the Complainant is not entitled to participate as a traditional party because the Complainant is not authorized to receive any student educational records, personally identifiable information provided by the District, and potentially the complaint resolution report. However, this does not remove the District's obligation to participate in the investigation or provide requested student records to the SEA as part of a state complaint investigation. *See* 34 C.F.R. § 300.211 (“The LEA must provide the SEA with information necessary to enable the SEA to carry out its duties under Part B of the Act...”); 20 U.S.C. 1232g(b)(1)(C) & (b)(3) & 34 C.F.R. 99.35(a)(1) (FERPA exception to parent consent requirement related to the disclosure of records

to the SEA for the enforcement of or compliance with Federal legal requirements that relate to those programs). As is always true, PED will take measures to ensure that no personal student records are released during and after this investigation to the extent permitted by law.

Issue No. 1

Whether the District has special education teachers, educational assistants and paraprofessionals and substitute teachers working in the District's Middle School who meet state certification requirements to teach or supervise special education students, as required by 6.61.6, 6.63.9 and 6.63.10.8 NMAC?

The Federal IDEA regulations and State rules have specific provisions requiring each LEA to hire and train all personnel necessary to carry out the responsibilities of the LEA. "The LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of 34 C.F.R. § 300.156 (related to personnel qualifications) and section 2122 of the ESEA." 34 C.F.R. §300.207. State rules provide that "[e]ach public agency is responsible for ensuring that personnel serving children with disabilities are qualified under state licensure requirements and are adequately prepared for their assigned responsibilities, pursuant to 34 CFR Sec. 300.156. Paraprofessionals and assistants who are appropriately trained and supervised in accordance with applicable department licensure rules or written department policy may be used to assist in the provision of special education and related services to children with disabilities under Part B of IDEA." 6.31.2.9(B)(9). *See also, Letter to Copenhaver*, 50 IDELR 16 (OSEP 11/07/07). Section 300.156 of the IDEA regulations includes the additional provision that special education staff "have the content knowledge and skills to serve children with disabilities." 34 CFR §300.156(a).

The Complainant alleges that the District has failed to have a special education teacher in the Level D classroom, and in the Middle School, during the entire 2021-2022 school year. The facts establish that the persons charged with the implementation of the IEPs of the Student, and any other students, in the Level D classroom in the Middle School during the 2021-2022 school year included one licensed substitute teacher and two licensed EAs. At one point there were only three licensed EAs in the Level D classroom. All of these staff members hold licenses or certificates from the State of New Mexico. The District admits that there has not been a special education teacher in the Level D classroom, or in the Middle School, for the entire 2021-2022 school year. There is no indication in the record that the long-term substitute teachers have the content knowledge and skills to serve children with disabilities. The Student's IEP provides that the Student's special education services will be provided by a special education teacher, but further provides that the Student's instruction time "may be provided through an EA under the supervision of a certified special education teacher." This is consistent with State regulations

which provide that “[while there may be brief periods when EAs are alone with and in control of a classroom of students, their primary use shall be to work alongside or under the direct supervision of duly licensed staff.” 6.63.9.8 NMAC.

It is concluded that the substitute teachers in the Level D classroom during the 2021-2022 school year were not duly licensed special education teachers. It is further concluded that the EAs in the Level D classroom clearly were not working alongside or under the direct supervision of a certified special education teacher during the 2021-2022 school year. Therefore, the documentation supports a conclusion that the District did not have special education teachers, educational assistants and paraprofessionals and substitute teachers working in the District’s Middle School who meet state certification requirements to teach or supervise special education students.

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

Issue No. 2

Whether the District has failed to have a licensed special education teacher in the Level D classroom in the District’s Middle School for longer than four consecutive weeks and, if so, whether the District also failed to so inform the parents of the students in that classroom, as required by 6.63.10.13 NMAC?

Issue No. 2 asks whether the District is in violation of 6.63.10.13 NMAC by failing to notify the parents of the students in the Level D classroom that the District failed to have a licensed special education teacher in the Level D classroom in the District’s middle school for longer than four consecutive weeks. This statute specifically provides that a “local superintendent . . . shall give written notice to parents of those students who are being taught for longer than four consecutive weeks by a substitute teacher or by a person who is not qualified to teach the grade or subject.” 6.63.10.13 NMAC. As noted above, it has been concluded that the District did not have a licensed special education teacher in the Level D classroom in the Middle School for the entire 2021-2022 school year. The teachers in the Level D classroom were licensed substitute teachers. During the school year there was not a special education teacher in the Middle School. Moreover, during the time in question, the District’s Special Education Director did not hold special education teaching licensure from the PED. The District has not provided any documentation that it notified the parents of students in the Level D classroom that the students were being taught for longer than four consecutive weeks by a substitute teacher or by a person who was not qualified to teach the grade or subject.

Therefore, as to Issue No. 2, the District is cited. Corrective action is required.

Issue No. 3

Whether the District failed to implement the IEP of a nonverbal student in the Level D classroom in the District's Middle School by failing to provide the nonverbal student with a communication device, as required by 34 C.F.R. §300.323(c)(2) and 6.31.2.11(B)(1) NMAC?

The Complaint alleges that the District failed to implement the Student's IEP by failing to provide the Student with access to an iPad for communication. The IDEA Federal Regulations and State rules require that "special education and related services are made available to the [Student] in accordance with the [Student's] IEP." 34 C.F.R. §300.323(c)(2) and 6.31.2.11(B)(1) NMAC. As noted in the facts above, the Student's January 7, 2022, IEP provides that the Student is entitled to receive Assistive Technology as part of the Student's educational program. However, the Student's IEP does not provide for the Student to have access to an iPad as AT or as an accommodation. The IEP specifically provides that the Student "relies on picture symbols and a communication system, at this time based on behavior he will use a lower tech communication system and as he shows capacity towards emotional and behavioral control he will utilize higher tech options (iPad). The January 7, 2022, PWN explains that the IEP team "decided to go to lower tech resources for communication due to some behavior issues with [the Student] and then reintroduce them at a later date. [The Student] follows a behavior intervention plan." Therefore, it is concluded that the District did not fail to implement the IEP of the Student by failing to provide the Student with a communication device.

As to Issue No. 3, the District is not cited. Corrective action is not required.

Issue No. 4

Whether the District's actions and/or omissions towards the students in the Level D classroom in the District's Middle School resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC?

The Federal regulations and State rules provide that violations of the IDEA may be based on either substantive or procedural violations. However, proving a procedural violation is only a first step to obtaining relief. In *Garcia v. Bd. of Educ. of Albuquerque Pub. Schs.*, 520 F.3d 1116, 1125-26 & n.4 (10th Cir. 2008), the court held that "procedural failures under IDEA amount to substantive failures only where the procedural inadequacy results in an effective denial of a FAPE."; *quoting Urban ex rel. Urban v. Jefferson County Sch. Dist. R-1*, 89 F.3d 720, 726 (10th Cir. 1996). Congress provided in the 2004 amendments to the IDEA that to find a denial of FAPE based on a procedural

violation, the procedural violation must have: (1) impeded the student's right to a FAPE, (2) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or (3) caused a deprivation of educational benefits. 34 C.F.R. §300.513(a)(2).

As noted above, the Student's IEP provides that the Student's IEP services will be provided by a special education teacher and EA's that are appropriately supervised. In addition, the State rules require the District to have properly licensed special education staff implement the IEPs of special education students in the Level D classroom. The facts set forth above clearly indicate that this did not happen. It is concluded that the violation of the IDEA that the District is cited for under Issue No. 1 is a substantive violation against the students in the Level D classroom in the District's Middle School. The facts also show that the District failed to notify the parents of the students in the Level D classroom that a substitute teacher was providing services for more than four months rather than a licensed special education teacher. This lack of notice prevented the parents from participating in the decision-making process regarding the staff in the Level D classroom. It is concluded that the procedural violation of the IDEA that the District is cited for under Issue No. 2 significantly impeded the parents of the students in the Level D classroom in the District's Middle School the opportunity to participate in the decision-making process regarding the provision of a FAPE to those students, and therefore constitutes a substantive violation.

Therefore, it is concluded that the District's actions and/or omissions towards the students in the Level D classroom in the District's Middle School resulted in a denial of a FAPE.

As to Issue No. 4, the District is cited. Corrective Action is required.

Summary of Citations

Statutory and Regulatory Provisions	Citation
6.61.6, 6.63.9 and 6.63.10.8 NMAC.	The District did not have special education teachers, educational assistants and paraprofessionals and substitute teachers working in the District’s Middle School who meet state certification requirements to teach or supervise special education students.
6.63.10.13 NMAC.	The District failed to have a licensed special education teacher in the Level D classroom in the District’s Middle School for longer than four consecutive weeks and failed to so inform the parents of the students in that classroom.
34 C.F.R. § 300.101 and 6.31.2.8 NMAC.	The District’s actions and/or omissions towards the students in the Level D classroom in the District’s Middle School resulted in a denial of a FAPE.

Required Actions and Deadlines

By June 3, 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
 CAP 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 Dr. Cassel.

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 May 27, 2023, and reported to the PED SED no later than June 3, 2023. All documentation submitted to the SED to demonstrate compliance with the CAP must be clearly labeled to indicate the complaint number, **C2122-21**.

Corrective Action Plan

Step No.	<u>Actions Required by Department</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED SED</u>	<u>Document Due Date</u>
1.	As described above, the District will submit a written assurance to the PED Corrective Action Plan Monitor that it will abide by the provisions of this Corrective Action Plan (CAP).	June 3, 2022	Written Assurance Letter/Email	June 3, 2022
2.	District will identify barriers to the recruitment and retention of qualified staff, including each of the following: <ul style="list-style-type: none"> a. Adequate compensation; b. Rural Location of District; c. Working conditions, such as physical space, training opportunities, and management/supervisory issues; d. others as identified by District 		Document containing identification and summary of recruitment and retention issues.	June 10, 2022
3.	The District Special Education Director and District Human Resources Director/Chief	June 17, 2022	Notes from meeting prepared by District	June 22, 2022

	<p>Administrator shall meet with PED SED Director and PED EA assigned to the District and the PED CAP Monitor to review the Complaint Resolution Report and the Corrective Action Plan. The District Special Education Director has the discretion to include other District administrators or personnel in this meeting. The District Special Education Director shall be responsible for setting up this meeting with SED.</p>			
4.	<p>District will develop and submit a comprehensive plan to address recruitment and retention of qualified and licensed special education staff including special education teachers, EAs, and related service providers.</p> <p>This plan shall include provisions to address the barriers identified in section 3 of this CAP. The District shall consider virtual options for service provision as part of its plan.</p>	July 8, 2022	Comprehensive Plan to address recruitment and retention of licensed special education staff	July 15, 2022
5.	<p>District shall submit, on a monthly basis, all documentation related to its activities and continued attempts to recruit and retain qualified and licensed special education staff which shall include recruitment from both inside and outside of the State.</p>	Ongoing starting July 15, 2022	Documentation related to activities and continued attempts to recruit and retain licensed special education staff	Submitted Monthly until all special education staff positions are filled.

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

Investigated by:

/e/ Wallace J. Calder
Wallace J. Calder, Esq.
Complaint Investigator

Reviewed by:

/e/ Miguel Lozano
Miguel Lozano, Esq.
Chief Counsel, Special Education Division

Reviewed and approved by:

A handwritten signature in cursive script, appearing to read "Deborah Dominguez-Clark".

Deborah Dominguez-Clark
Director, Special Education Division