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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Case No. C2122-32
July 21, 2022**

This Report requires corrective action. See pages 13-15.

This complaint was filed with the Special Education Division (SED) of the New Mexico Public Education Department (PED) on May 24, 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 complaint investigator's investigation process in this matter involved the following:

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

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.

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

1. Whether the School failed to implement the IEP of the Student by failing to provide the Student with special education and related services, in accordance with the Student IEP, as required by 34 C.F.R. §300.323(c)(2) and 6.31.2.11(B)(1) NMAC?
2. Whether the School's actions and/or omissions towards the Student 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?

General Findings of Fact

1. The School is a charter school and a local education agency under State law and, as such, is responsible for implementing the IEPs of special education students enrolled in the School.
2. The Student who is the subject of this complaint investigation was enrolled in the 1st grade in the School during the 2021-2022 school year. Student is seven years old and resides with his parents.
3. Student's 1st grade teacher reports that during the first several weeks at the beginning of the 2021-2022 school year, Student exhibited some challenging behaviors at school such as spinning in class, slapping, pushing and throwing rocks at students, and yelling at School staff and other students.
4. On September 13, 2021, Student's teacher sent an email to the Parent regarding the Student's behavioral incidents at school and requested her insights regarding Student's behavior. The Parent responded to this email and expressed her concern with Student's

behavior at school and home and informed the teacher that Student had been receiving private Occupational Therapy (OT) for the previous year to assist him with sensory processing issues. The Parent also informed the teacher that she had reached out to a friend who is a neuropsychologist to discuss conducting an evaluation of the Student, which the Parent would pay for.

5. School records indicate that the SAT process paperwork was initiated by Student's teacher following her emails with the Parent on September 13, 2021.
6. On September 21, 2021, the Parents met with School staff to discuss Student's behavior and progress at school.
7. On October 8, 2021, the Parent took the Student to meet with the neuropsychologist for an evaluation.
8. On October 13, 2021, the Parents sent an email to School staff indicating their frustration with their recent interactions with the School and included a copy of the summary of the neuropsychological evaluation of the Student conducted on October 8, 2021. In this email the Parents also requested that the School initiate an initial special education evaluation of the Student or that the School accept the October 8, 2021, neuropsychological evaluation and provide special education services to Student.
9. The documentation does not include a written consent to evaluate Student signed by Parent.
10. Student was referred by School staff to the School's Student Assistance Team (SAT) on October 15, 2021.
11. The initial special education referral meeting of Student's SAT team meeting was held on October 26, 2021. The SAT reviewed Student's behavior and progress in Math and Reading during September and October 2021, and the summary of the October 8, 2021, neuropsychological evaluation of Student obtained by the Parents and provided to the School on October 13, 2021.
12. On October 26, 2021, Student's SAT referred Student to the School's Diagnostician for a special education evaluation.
13. School records indicate that the School's Diagnostician reviewed the Student's October 8, 2021, neuropsychological evaluation to determine if it met the requirements identified in the New Mexico Technical Evaluation Assistance Manual. The Diagnostician determined that it did. The School thereafter accepted the October 8, 2021 evaluation of the Student.
14. On December 14, 2021, the School's Eligibility Determination Team (EDT) met to review the information collected by the Diagnostician, including the Student's October 8, 2021, neuropsychological evaluation and other data collected by the SAT. The EDT made the following eligibility determinations:
 - a. "Specific Learning Disability Dual Discrepancy Model.

- i. The results of the evaluation documents that the child is eligible for and in need of special education services under the eligibility category of specific learning disability as defined by IDEA (2004).
 - ii. The child also demonstrates the characteristics of dyslexia.”
 - iii. Eligibility for SLD was based upon the Student’s weaknesses “in basic reading, reading comprehension, and written expression. This includes demonstrating characteristics of and has been diagnosed with dyslexia.”
 - b. “Other Health Impairment (secondary eligibility).
 - i. The results of the evaluation documents that the child is eligible for and in need of special education services under the eligibility category of other health impairment as defined by IDEA (2004).”
 - ii. Eligibility for OHI was based upon the Student having Attention Deficit Hyperactivity Disorder (ADHD) and dyslexia.
 - c. The December 14, 2021, EDT consisted of the following individuals: Mother and Stepfather; Special Education Teacher; General Education Teacher; School Principal; Diagnostician; School Psychologist; School Social Worker; and Family Advocate.
- 15. On December 14, 2021, immediately following the EDT meeting, the Student’s IEP Team met to develop an initial IEP for Student. The IEP team discussed and agreed upon much of the Student’s IEP, but due to the length of the IEP team meeting several key School staff members could not continue and the IEP was tabled until January 5, 2022. Due to the Winter Break beginning December 18 through January 5, the IEP was delayed three school days, a total of 22 calendar days.
- 16. On January 5, 2022, the Student’s IEP team met to complete the Student’s IEP. The Student’s January 5, 2022, IEP provides, in relevant part, as follows:
 - a. Annual Goals were developed for Student in four Areas of Need:
 - i. Reading – two goals;
 - ii. Written Language – one goal;
 - iii. Career Readiness – one goal; and
 - iv. Social/Emotional – one goal.
 - b. Instructional Accommodations were provided for Student in all academic areas.
 - c. Accommodations were provided in State and District-Wide assessments.
 - d. Under the Schedule of Services, the following Special Education Services were provided for Student:
 - i. Individual and/or Group Setting Reading for 300 minutes per week in the Special Education Setting; and
 - ii. Language Arts for 30 minutes per week in the Regular Education classroom.

- e. Those in attendance at the IEP team meetings were as follows: Mother and Stepfather; School Principal; Regular Education Teacher; Special Education Teacher; School Counselor; and Family Advocate.
 - f. All IEP team members, including Parents, signed the IEP electronically.
17. The Prior Written Notice (PWN) attached to the Student's January 5, 2022, IEP indicates that the following relevant matters were discussed and actions taken:
- a. The IEP team agreed on the Language Arts and Reading service minutes provided in the IEP.
 - b. The Parents proposed 60 minutes per week of OT and 60 minutes per week of Social Work services. This proposal was rejected and it was stated that "consent for evaluation has been sent to the parents. Once the consent has been signed and evaluations completed, this proposal will be revisited through an addendum."
 - c. The OT had been observing Student and proposed that Parents sign a consent for an OT evaluation. This proposal was accepted and stated that the OT may begin providing OT services to Student during the period of evaluation as an MLSS intervention. This was accepted by the team.
 - d. Parents proposed that Student receive reading instruction through an evidenced-based structured literacy program for children with dyslexia. This will be provided by a structured literacy-trained tutor (possibly from the May Center) or a structured literacy-trained teacher until school staff has been trained in the curriculum. The School stated that "since the School is waiting on training for their curriculum, school staff will ensure that [Student's] services are being provided by a previously trained individual."
18. The School's Special Education Director reports that in January 2022, the School "employed a special education teacher who is a licensed reading specialist...and she worked with [Student] to provide [their] special ed services and specialized reading instruction."
19. At the January 5, 2022, IEP team meeting, Student's IEP team agreed to have the School conduct OT and Social Work evaluations for the Student.
20. School records indicate that the OT evaluation was completed prior to February 9, 2022, and that an IEP amendment meeting was held on February 11, 2022. The February 11, 2022, IEP Amendment and attached PWN indicate that the Student's IEP team reviewed the OT evaluation and added an OT Annual Goal and service minutes at 45 minutes of direct and indirect services per week to begin immediately, and changing to 30 minutes of direct services per week beginning April 1, 2022.
21. On April 22, 2022, Parent received copies of Student's Progress Reports for the previous quarter. On April 23, 2022, Parent sent an email to the Student's teacher indicated she was pleased with the progress on Goals 1-3, but had some concerns with Goals 4 and 5. In

particular, Parent noted that there was no Progress Report for Goal 5, the social/emotional goal.

22. On April 29, 2022, the School's new Special Education Director sent an email to Parent informing her that there were no Social Work services on Student's IEP and that Student had not been receiving direct services in that area. The Director admitted that Parents had provided consent for a Social Work evaluation, and she would follow-up on that issue.
23. On April 29, 2022, Parent responded to the Director's email and expressed that she was "hurt and horrified" to be told at by the School that it had failed to fully implement Student's IEP and failed to evaluate, and provide services, for Social Work for Student. Parent requested a meeting and the School agreed to meet on May 6, 2022. Parent later requested that the meeting be rescheduled to May 13, 2022, which the School agreed to do.
24. The documentation indicates that at some point between April 29, 2022, and May 13, 2022, the Student's Social Work evaluation was completed. A report on the Social Work evaluation was completed, dated May 13, 2022, which recommended Social Work services for Student.
25. On May 13, 2022, the Student's IEP team met to discuss various issues concerning Student's IEP and educational program. The IEP team was not able to complete its discussion of Student's IEP, and the team agreed to meet, and did meet again, on May 18, 2022. The Student's IEP was revised to include, as a Supplementary Aid and Service, 30 minutes per week of school counseling/social work services in the general education classroom.
26. The PWN attached to the Student's IEP dated May 13, 2022, and also including the IEP team meeting on May 18, 2022, provides, in relevant part, as follows:
 - a. The School proposed to provide 7 hours of compensatory services for Social Work services that were not provided between February 5, 2022 and May 13, 2022. This proposal was accepted by the IEP team.
 - b. Parents requested one year of tuition reimbursement at a private school for Student to receive specialized reading instruction. Parents later changed their proposal to three years of tuition reimbursement at a private school. These proposals were rejected because the School believes that it has proposed an appropriate placement for Student which offered FAPE.
 - c. Parents proposed that reading service time, social work service and compensatory social work service begin on May 16, 2022. The IEP team accepted this proposal in order to not delay providing services.
 - d. The School proposed to provide 60 hours of compensatory reading services for special education reading intervention for Student due to a failure by School to provide all of the service minutes set forth in Student's IEP, which Parents objected to. The School stated that: "Due to teacher illness, unavailability of substitute teachers, and inadvertent under-identification of student's IEP service

time, the student did not receive services per his IEP from 1/6/22 to 5/13/22.” This proposal was accepted by the IEP team.

- e. The School proposed to provide compensatory services to Student during the Summer, but parents objected to this due to their travel schedule. This proposal was rejected by the IEP team.
 - f. The School proposed to provide compensatory services in Reading to Student before or after school one hour, three times per week for 20 weeks. This proposal was accepted by the IEP team.
 - g. The Parents proposed to defer provision of compensatory services for Social Work until the next school year so that Student has consistent service providers. This Proposal was accepted by the IEP team.
 - h. The School proposed to reconvene the IEP team meeting at a date to be agreed upon by the IEP team members to try to reach consensus on all proposals.
27. The documentation from the School and the Parents indicates that the Student should have received 100 hours of Reading Services, and that the Student was only provided with 40 hours of Reading services, which means that the School failed to provide 60% of Student’s Reading services.
28. On May 27, 2022, Parent sent an email to the Head Administrator at the School indicating that “pursuant to Title 34 C.F.R. Sec. 300.148(d)(1)(ii), I am writing to notify you that I will be placing my child at [private school] – a non-public school that serves students like [Student].” Parent indicated that Parent would be seeking reimbursement from the School for Student’s private school tuition.
29. Attendance records for the 2021–2022 school year indicate that through the first three terms of the school year, Student had a 100% attendance record. During the fourth term the Parents kept Student Home from School several days following their disagreements with the School.
30. Student’s report card for the 2021–2022 school year indicates as follows:
- a. First term: Writing – partially met expectations 74;
Reading – partially met expectations 75.
 - b. Second term: Writing – partially met expectations 72;
Reading – partially met expectations 81.
 - c. Third term: Writing – partially met expectations 66;
Reading – partially met expectations 77.
31. School records include progress reports for Student which provide, as follows:
- a. Reading Goal 1:

- i. March 11, 2022 – Sufficient Progress since goal initiated.
 - ii. May 26, 2022 – Sufficient Progress.
- b. Reading Goal 2:
 - i. March 11, 2022 – Sufficient Progress since goal initiated.
 - ii. June 3, 2022 – Sufficient Progress.
- c. Written Language:
 - i. March 11, 2022 – Sufficient Progress since goal initiated.
 - ii. June 3, 2022 – Sufficient Progress.
- d. Career readiness:
 - i. March 11, 2022 – Insufficient Progress since goal initiated.
 - ii. May 5, 2022 – Sufficient Progress.
- e. Social/Emotional:
 - i. April 29, 2022 – Sufficient Progress.
- f. OT:
 - i. June 1, 2022 – Sufficient Progress.

Discussion and Conclusions of Law

Issue No. 1

Whether the School failed to implement the IEP of the Student by failing to provide Student with special education and related services, in accordance with Student’s IEP, as required by 34 C.F.R. § 300.323(c)(2) and 6.31.2.11(B)(1) NMAC?

The federal regulations and state rules provide that a request for an initial special education evaluation may be made by either the parent of the child or by school staff. 34 C.F.R. § 300.301(b); 6.31.2.10(D)(1)(b) NMAC. Upon receipt of a parent request for an evaluation, the district must respond to the parent within a reasonable timeframe. The response may not be delayed due to the district’s Response to Intervention process. 6.31.2.10(D)(1)(c)(iv) NMAC. See Letter to Ferrara, 60 IDELR 46 (OSEP 2012). Neither the federal regulations nor the state rules require that the referral, or parental request, for a special education evaluation be in writing.

Once the district has reason to suspect that a student is a child with an IDEA disability and may need special education, it must take steps to ensure that the child receives a full and individual evaluation. 34 C.F.R. § 300.301(a); 6.31.2.10(D) NMAC. When a parent requests an evaluation, the district must issue, within a reasonable time after the parent request, a prior written notice indicating whether it is refusing to evaluate the child or agreeing to evaluate the child. 34 C.F.R. §§ 300.300(a) and 300.309(c). If the public agency declines the parent's request for an evaluation, the public agency must issue prior written notice in accordance with 34 C.F.R. § 300.503. The parent can challenge this decision by requesting a due process hearing. 34 C.F.R. § 507(a)(1); and 6.31.2.10(D)(1)(c)(iv) NMAC.

The IDEA and its implementing regulations provide that a public agency must promptly request parental consent to evaluate a child to determine if the child needs special education and related services whenever a child is referred for an evaluation. 34 C.F.R. § 300.309(c). The IDEA and state rules do not specify a time within which parental consent must be obtained. However, delay by a district in seeking parental consent acts to circumvent the timelines for evaluation, and it is not acceptable for a district to wait several months before seeking consent for an evaluation. 71 Fed. Reg. 46540 (2006). *See, e.g.*, District of Columbia Pub. Schs., 12 ECLPR 109 (SEA DC 2015) (finding that the district denied a first-grader FAPE when it failed to provide his parent with referral and consent forms in response to her oral evaluation request in a timely manner). Thus, school districts "would be well-advised to request parental consent for evaluations as soon as possible." Denver Pub. Sch. Dist. 77 IDELR 57 (SEA CO 2020) (citing Letter to Anonymous, 50 IDELR 258 (OSEP 2008)). The fact that a school may have been implementing interventions with the student during this time, or that the school was experiencing a large number of referrals for evaluation, are not valid excuses for the delay.

The Federal regulations and State Rules provide that the district must conduct the initial evaluation of the student within 60 days of receiving parental consent. 34 C.F.R. § 300.301(c); 6.31.2.10(D)(1)(c)(i) NMAC. There are two exceptions to the 60-day evaluation timeline: (1) if the parent of a child repeatedly fails or refuses to produce the child for the evaluation or (2) if the child enrolls in a school of another public agency after the initiation of the evaluation and prior to a determination as to whether the child is a child with a disability. 34 C.F.R. § 300.301(d). There certainly can be occasions when the failure to timely conduct an evaluation is the fault of the parents and not the district. However, federal regulations and state rules require prompt and timely actions on behalf of public agencies following a referral for a special education evaluation except in the two above-mentioned situations. Upon completion of the initial evaluation, the eligibility determination team, including the parent (and child, if appropriate), shall meet to determine if the child is a child with a disability and requires an IEP. 34 C.F.R. § 300.306(a)(1); and 31.2.10(D)(1)(f) NMAC. Finally, the district must ensure that a meeting to develop an IEP for a

child is conducted within 30 days of a determination that the child needs special education and related services. 34 C.F.R. § 300.323(c)(1); 31.2.11(B)(1) NMAC.

The Rules further provide that the district must ensure that as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. 34 C.F.R. § 300.323(c)(1); and 31.2.11(B)(1) NMAC. Each public agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider and any other service provider responsible for its implementation, and each teacher and provider is informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. 34 C.F.R. § 300.323(d).

In their complaint, Parents allege that School failed to implement portions of Student's IEP with fidelity. In particular, Parents allege that after developing the January 5, 2022, IEP, School failed to implement 60% of Student's Reading service minutes, a total of 60 hours. Parents describe this failure to implement as material and egregious and a violation of FAPE. The School admits that it failed to provide these 60 hours of Reading services, but argues that this failure was inadvertent and *de minimis*. The School argues that Student made progress toward all of Student's IEP Goals and, therefore, the admitted failure to fully implement the Student's Reading services is not material and did not result in a denial of FAPE. While it is true that the documentation does indicate that Student did make some progress towards his IEP goals, this fact is overshadowed by the School's failure to provide 60% of the Reading service minutes that Student was entitled to receive under Student's IEP. If Student made some progress receiving 40% of his Reading service minutes, it is reasonable to conclude that Student would have made even greater strides if he had received all of the Reading service minutes he was entitled to.

The Parents further allege, and the School admits, that the School failed to conduct a Social Work evaluation of the Student after obtaining consent from the Parent in January, 2022, following the January 5, 2022, IEP team meeting. The State Rules provide that the School had 60 days from the date consent was received by the School to conduct the Social Work evaluation, and upon completion of the evaluation to convene a meeting of the eligibility determination team to determine the student's eligibility for Social Work services. Upon a determination of eligibility, the School had 30 days to hold an IEP team meeting to develop Social Work goals and services for the Student. Using the above dates, it is concluded that the School had until April 5, 2022, to evaluate, determine the eligibility of, and develop IEP services for, Student in the area of Social Work. However, the evaluation, determination of eligibility and the IEP team meeting to develop Social Work services for the Student was not held by School until May 13, 2022, and was re-scheduled and concluded on May 18, 2022, six weeks later than allowed by State Rules. At the

May 18, 2022, IEP team meeting for the Student, the IEP team amended the Student's IEP to include 30 minutes per week of school counseling/social work services as a Supplementary Aid and Service. Therefore, it is concluded that the School failed to provide six weeks of Social Work services to student, or a total of three hours.

It is concluded that School failed to implement 60% of the Reading Services set forth in Student's IEP which amounted to 60 hours, and further failed to provide three hours of Social Work services to the Student, and that these failures by School constitute a material failure to implement Student's IEP.

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

Issue No. 2

Whether the School's actions and/or omissions towards the Student 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 concluded above, the documentation does indicate that Student did make some progress towards his IEP goals, but this fact is overshadowed by the School's failure to provide 60% of the Reading service minutes that Student was entitled to receive under Student's IEP. If Student made some progress receiving 40% of his Reading service minutes, it is reasonable to conclude that Student would have made even greater strides if he had received all of the Reading service minutes he was entitled to. It is concluded that the failure to provide 60% of the Reading services minutes set forth in Student's IEP constitutes a material implementation failure on the part of the School. It is concluded that this material failure to implement the Student's IEP impeded the Student's right to a FAPE and caused a deprivation of educational benefits to the Student.

Therefore, it is concluded that the School's actions and/or omissions towards the Student resulted in a denial of a FAPE to the Student.

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

In view of the fact that the Student's IEP team has determined that providing 60 hours of compensatory Reading services, and more than 3 compensatory Social Work services, to Student is appropriate for Student to continue to make progress, and agreed to a schedule to provide compensatory Reading and Social Work services to Student during the 2022-2023 school year, it is concluded that 60 hours of compensatory Reading services, and three hours of compensatory Social Work services, is an appropriate remedy for Student.

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. § 300.323(c)(2) and 6.31.2.11(B)(1) NMAC.	The School failed to implement the IEP of Student by failing to provide Student with special education and related services, in accordance with Student's IEP.
34 C.F.R. § 300.101 and 6.31.2.8 NMAC.	The School's actions and/or omissions towards the Student resulted in a denial of a FAPE to the Student.

Required Actions and Deadlines

By July 29, 2022, the School's Special Education Director must assure the SED in writing that the School will implement the provisions of this Corrective Action Plan (CAP). The SED requests that the School submit all documentation of the completed corrective actions to the individual below, who is assigned to monitor the School'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 School is advised that the SED 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 SED.

Each step in this Corrective Action Plan is subject to and must be carried out in compliance with the procedural requirements of the IDEA 2004 and the implementing federal regulations and State rules. Each step also must be carried out within the timelines in the Corrective Action Plan. If a brief extension of time for the steps in the Corrective Action Plan is needed, a request in writing should be submitted to the Corrective Action Plan Monitor. The request should include the case number, the date for the proposed extension, and the reason for the needed extension. The SED will notify the parties of any extension granted.

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 July 28, 2023, and reported to the SED no later than August 11, 2023. All documentation submitted to the SED to demonstrate compliance with the CAP must be clearly labeled to indicate the state complaint case number and step number.

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 School will submit a written assurance to the Corrective Action Plan Monitor that it will abide by the provisions of this Corrective Action Plan (CAP).	July 29, 2022	Written Assurance Letter/Email	July 29, 2022
2.	The School Special Education Director and the school principal shall meet with the SED Education Administrator assigned to the Charter School and the SED CAP Monitor to review the Complaint	August 12, 2022	Notes from meeting prepared by School	August 19, 2022

	<p>copy of, and have fully reviewed, the IEP of each student they teach or provide services to.</p> <p>The training shall be provided by a person with expertise in special education who was not involved in responding to this complaint and who is approved by NMPED.</p>		<p>Submission of proposed trainer and trainer’s resume and proposed presentation for NMPED approval.</p>	<p>August 12, 2022</p>
<p>4.</p>	<p>The School shall offer, in writing, compensatory education to Student in the amount of:</p> <ol style="list-style-type: none"> 1. 60 hours of intensive Reading services and 2. 3 hours of Social Work services <p>The offer of compensatory education to the parents and Student shall be made whether or not Student enrolls in the School during the 2022-2023 school year.</p> <p>If the offer of compensatory education is accepted, Student’s IEP team will meet to develop a specific schedule for providing the compensatory services.</p> <p>If the offer of compensatory education is denied in whole or in part, School will document the Parent’s decision to deny the services in writing.</p>	<p>August 15, 2022</p> <p>Meeting held within 14 days of acceptance</p>	<p>Written Offer of Services to Student’s Parents.</p> <p>A copy of the Student’s IEP and PWN, notes and agenda.</p> <p>Monthly log documenting delivery of compensatory education services.</p> <p>Documentation of Parent’s Decision to deny offer of services in whole or in part.</p>	<p>August 17, 2022</p> <p>Within 7 days of the IEP Meeting</p> <p>Monthly until services are complete</p> <p>Within 7 days of receiving denial.</p>

This report constitutes the New Mexico Public Education Department's final decision regarding this complaint. If you have any questions about this report, please contact the Corrective Action Plan Monitor.

Investigated by:

/s/ Wallace J. Calder

Wallace J. Calder, Esq.
Complaint Investigator

Reviewed by:

/s/Miguel Lozano

Miguel Lozano, Esq.
Chief Counsel, Special Education Division

Reviewed and approved by:



Deborah Dominguez-Clark
Director, Special Education Division