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SECRETARY OF EDUCATION

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NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Case No. C2223-21
December 9, 2022

This Report requires corrective action. See pages 14–18.

On October 11, 2022, this complaint was filed with the Special Education Division (SED) of the New Mexico Public Education Department (PED), 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 exhibits 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. §§ 300.151 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;
- interviews with the Special Education Director and Parents/Guardians; 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 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. For this reason, the Complaint Investigator did not investigate the following issues raised by the complainant: whether the District violated Section 504 of the Rehabilitation Act.

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 failed to develop appropriate Individualized Education Programs (IEPs) for Students that were enrolled in the District’s BBI program, in violation of 34 C.F.R. §§ 300.34, 300.39, 300.320–300.328 and 6.31.2.11(B) NMAC;
2. Whether the District denied Students’ parents a meaningful opportunity to participate in IEP meetings, in violation of 34 C.F.R. § 300.501(b) and 6.31.2.13(C) NMAC; and
3. Whether the District’s actions and/or omissions towards the Students 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

District Behavior Intervention Program

1. During the 2021-2022 school year, the District administered a behavior intervention program at its high school.

2. The behavior intervention program used a point system to reinforce positive behaviors and transition students back to a regular education setting.
3. The behavior intervention program consisted of a classroom where a substitute teacher and education assistant oversaw special education students with disability-related behavioral needs.
4. Educational programming in the behavior intervention program involved the substitute teacher providing support to students as they completed assignments supplied by their academic teachers.
5. There was an education assistant present to offer behavioral support as needed.
6. There was not a regular education teacher or special education teacher present in the behavior intervention program.
7. There was no specific instruction provided by staff to students in the behavior intervention program.

OCR Investigation and Resolution

8. On February 1, 2022, there was a complaint alleging disability discrimination towards students attending the District's behavior intervention program filed with the U.S. Department of Education, Office of Civil Rights ("OCR").
9. In a findings letter dated April 29, 2022², OCR found the District failed to reevaluate Student A, implement Student A's IEP, and educate Student A in the least restrictive environment.
10. There was a corresponding resolution agreement executed by the District that agreed to: (a) develop policies and procedures for placement decisions, the least restrictive environment, IEP implementation, and the provision of FAPE; (b) provide staff training on the updated policies and procedures; (c) convene IEP meetings for each student in the behavior intervention program to determine whether the student was denied FAPE and whether compensatory services are owed, and (d) provide ongoing reporting to OCR.
11. The District held IEP meetings in May 2022 and September/October 2022 to review the IEPs of the twelve students who were in the behavior intervention program during the 2021-2022 school year.
12. Students who missed any social work or psychological services sessions were offered specific hours of compensatory services. The District's offers of compensatory services were declined by some families while others agreed to the make-up sessions.

² 122 LRP 21279.

13. According to the District's Special Education Director, the reasoning for rejecting compensatory services was that parents were satisfied with the level of programming and services their child had already received.

Students in the Behavior Intervention Program

14. There were eight students who attended the behavior intervention program last year.
15. The levels of participation in the behavior intervention program ranged from full-day, partial day, use of the program classroom for time away from academic class, or as a setting for receipt of related services.
16. An additional four students who were not included in the behavior intervention program were included in the scope of the investigation because they were considered for compensatory social work and psychological services.
17. A review of the student records showed that the majority of the students had IEPs that provided: (a) specialized instruction in reading, writing; or math; and (b) related services such as social work or psychological services.
18. These students also largely displayed sufficient progress in achieving their IEP goals and earning passing grades in their courses.
19. When the IEPs for these students were reviewed and revised during the May 2022 meetings, the updated IEPs included specialized instruction, resource room³, and related services at frequencies that were individualized for each student.
20. Parent/Guardians of these students participated in the May 2022 and September/October 2022 IEP team meetings and either accepted or declined the District's offer of compensatory social work and psychological services.
21. Concerns or questions about the students' IEPs were addressed by the District staff participating in the IEP Team meetings.
22. Based on the foregoing, the scope of the investigation was narrowed to the following three students as these students' educational programs exhibited potential violations related to the issues raised in this complaint.

Student A

23. Student A is in the eleventh grade and eligible for special education under the classification of emotional disturbance.

³ It should be noted that the term "academic support" appears in many of the student IEPs. While this investigation established that academic support means resource room, a plain reading of the IEP does not clearly indicate this as a resource room service.

24. Due to concerns regarding Student A's threatening conduct at school, there was a safety plan developed on October 19, 2021. The plan called for the Student to attend the behavior intervention program, work with an outside counselor, earn points for appropriate behavior, regularly meet with the District's social worker and school psychologist, and take medication at school.
25. There was an IEP team meeting held on October 28, 2021.
26. The IEP team recommended 1300 minutes per week of "Academic Supports/Behavior Supports." This was the description of services that Student A would receive in the behavior intervention program. The IEP team's rationale for placing Student A in the behavior intervention program is that Student A required a more structured environment to address his deficits in emotional self-regulation.
27. No regular or specialized instruction was provided to Student A while he attended the behavior intervention program during the 2021-2022 school year.
28. Special Education Director stated that Student A would receive assignments from academic teachers and work with the substitute teacher in the behavior intervention program to complete those assignments.
29. While the substitute teacher may have implemented some modifications to the assignments for Student A, the Special Education Director acknowledged that neither a regular education nor a special education teacher was present in the behavior intervention program to provide instruction to Student A.
30. As part of the resolution to the OCR complaint, there was another IEP team meeting held on May 5, 2022 to review Student A's IEP. The IEP team recommended removing Student A from the behavior intervention program and placing student in regular education classes with 75 minutes per week of specialized instruction in reading. Compensatory services in social work and psychological services were discussed but ultimately declined by the Guardian because Student A was already seeing an outside counselor.
31. There were revisions to Student's Behavior Intervention Plan (BIP) on May 10, 2022 to permit Student A to use a "calm down area" if student became agitated in regular education classes.
32. Student A achieved his IEP goals during the 2021-2022 school year. Grades consisted of Ds in Geology, Algebra, and English Language Arts.
33. The Special Education Director stated that Student achieved his 2021-2022 IEP goals and that new goals were created at the May 5, 2022 IEP meeting.
34. The District convened an IEP team meeting on September 19, 2022 to assess the adequacy of services for Student A. At this meeting, the Guardian voiced concerns that Student A did not receive an appropriate education last year. In response, the IEP team recommended increasing specialized reading instruction to 495 minutes per week to provide Student A more support as they attended regular education classes.

Compensatory services in the amount of 2.45 hours of social work and 9.5 hours of psychological services were recommended.

35. Special Education Director pointed out that the IEP team added 329 minutes per week of “regular education setting aid support” which meant Student would attend resource room as a separate service. This service was described in the prior written notice but not contained in the IEP dated September 19, 2022.
36. First quarter progress report shows Student made sufficient progress in reading and social-emotional goals but insufficient progress in behavior and transition planning goals.
37. District has sought to conduct a reevaluation of Student. Special Education Director states that Student refuses to submit themselves to the evaluation testing.
38. The state complaint investigator attempted to call and speak with the guardian of Student A on December 1 and December 2. Guardian has not replied to these communication attempts.

Student B

39. Student B is an eleventh-grade student eligible for special education under the classification of emotional disturbance.
40. There was an IEP team meeting held on November 15, 2021. At this meeting, the IEP team recommended 240 minutes per week of “Behavior Support/Academic Support.” This meant that Student B attended the behavior intervention program at the aforementioned frequency. Other related services included social work and other behavior services. No specialized instruction was included in this IEP.
41. Over the course of the 2021-2022 school year, Student B accrued 163 course absences.
42. There is no evidence that the District took any steps, such as holding an attendance meeting or convening an IEP team meeting, with Student B and Guardian to address the lack of attendance.
43. The IEP team gathered for a meeting on May 20, 2022 to review Student B’s IEP. The IEP was revised to replace Student’s placement in the behavior intervention program with 240 minutes per week of specialized math instruction as well as social work and behavior support services.
44. Guardian declined 6.5 hours of compensatory social work services offered at the IEP meeting. In an interview, Guardian stated that compensatory services were unnecessary.
45. Student B’s final 2021-2022 grades consisted of an F in Geometry, a D in World History, and two no-grades in Geology and English Language Arts.
46. Special Education Director explained that Student B could obtain class credit for the no-grades if student attended afterschool and Saturday credit recovery classes.

47. The progress report dated May 20, 2022 showed Student B made insufficient progress across all goals in the areas of transition, social-emotional, math, and behavior. The minimal progress was due to failure to attend classes, excessive absences, and fighting with another student.
48. According to the Special Education Director, Student B and the other student are placed in separate classes for the 2022-2023 school year.
49. An IEP team meeting on October 19, 2022 resulted in Student B continuing to receive the current level of services previously recommended at the last meeting.
50. This year, Student B has already tallied 41 course absences and student is failing US History and English Language Arts.
51. Progress marks for the 2022-2023 school year show a continuing pattern of Student B making insufficient progress in their IEP goals. Comments in the progress report demonstrate that a lack of regular attendance and difficulty using positive coping skills remain barriers to Student B's learning.
52. Guardian reported that Student B is struggling in school because if Student B is agitated or experiencing anxiety then student cannot process emotions or tolerate being in a classroom setting.
53. Guardian stated that Student B may need a smaller classroom setting to provide the level of structure to facilitate Student B's learning.

Student C

54. Student C is a ninth-grade student eligible for special education under the classification of Specific Learning Disability.
55. Student C's IEP dated January 13, 2022, contained an array of services which included 180 minutes per week of "academic support/behavioral supports," 150 minutes per week of specialized instruction in reading and writing each, 90 minutes per week of specialized math instruction, and 30 minutes per week of social work.
56. A BIP was also produced at this meeting. The plan targeted Student C's deficits in self-control with the ultimate aim that Student C would follow the District's substance abuse policy.
57. When the IEP Team met again on May 9, 2022, Student C's services were altered by removing the behavior intervention programming and continuing specialized instruction in math, reading, and writing at frequencies of 120, 180, and 180 respectively. District proposed 6.5 hours of compensatory social work services and Parent accepted two hours. Furthermore, the IEP team recommended continuing Student C's BIP.

58. Student C recorded 329 course absences for the 2021-2022 school year. Special Education Director said that there was a discussion about attendance with student and parent at the May 9, 2022 IEP meeting.
59. Special Education Director discussed how Student C lives in another district and must commute to the attending school district by bus. If Student C misses the bus for some reason, then student does not attend school that day.
60. Special Education Director explained how Student C engages in a pattern of ditching school at the start of the day or after lunchtime and continues to receive suspensions for disciplinary infractions such as vaping and drug possession.
61. The grade report for the 2021-2022 school year shows Student C failed Physical Science, Algebra, English Language Arts, and New Mexico History.
62. An IEP team meeting on October 12, 2022 resulted in a recommendation to continue Student C's services at their current levels.
63. Student progress report for IEP goals (which span across last school year and the current one) reflects Student C's insufficient progress in goals focused on social-emotional needs, written language, behavior, reading, and transition planning. The lack of progress is attributable to Student C's struggling with coping strategies, academic motivation, excessive absences, and suspensions.
64. First quarter grades for the 2022-2023 school year show Student C is failing Geometry, English Language Arts, and World History.
65. Course absences this year already total 109.
66. The state complaint investigator attempted to call and speak with the parent of Student C on December 1 and December 2, but was not able to reach Student C's parents.

Discussion and Conclusions of Law

Issue No. 1

Whether the District failed to develop appropriate Individualized Education Programs (IEPs) for Students that were enrolled in the District's BBI program, in violation of 34 C.F.R. §§ 300.34, 300.39, 300.320–300.328 and 6.31.2.11(B) NMAC.

For each student eligible for special education, a school district must develop an Individualized Education Program (IEP) that provides a free appropriate public education (FAPE). *Sytsema ex rel. Sytsema v. Acad. Sch. Dist. No. 20*, 538 F.3d 1306, 1312 (10th Cir. 2008). Special education is defined as specially designed instruction intended to meet the unique needs of the child with a disability. 34 C.F.R. § 300.39. Moreover, the obligation of developing an IEP is ongoing because a school district must ensure that an IEP is reviewed and revised if the child displays a lack of

educational progress in the general education curriculum. 34 C.F.R. § 300.324(b)(ii)(A). Likewise, if a student displays truancy behaviors that impede their learning, then the District may have a duty to address the absenteeism in the IEP with the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 34 C.F.R. § 300.324(a)(2)(i).

The students not profiled in this investigation had IEPs that were appropriately developed. Specialized instruction in reading, writing, and math was delivered to many of these students so they could advance toward achieving their annual academic goals. Other students in this group were provided resource room to supplement the instruction in their other classes. Most students additionally received social work and psychological services to assist them in accessing their education. Taken together, the IEP development for this student group was appropriate during the relevant period of this investigation.

The District failed to develop an appropriate IEP for Student A during the 2021-2022 school year. Student A's fulltime placement in the behavior intervention program for academic or behavior support with no staff qualified to teach core academic subjects deprived Student A of receiving any form of instruction. The absence of teacher instruction in Student A's 2021-2022 IEP constitutes a serious IDEA procedural violation because Student A was denied a fundamental aspect of educational programming. For these reasons, the 2021-2022 IEP for Student A was not developed appropriately.

The IEP for Student B was not properly developed. Student B was displaying a pattern of truancy that impacted their progress in the general education curriculum. The District did not address Student's truancy in the IEP by considering positive behavioral interventions aimed at increasing attendance, developing an attendance plan, or evaluating the cause of Student's ongoing attendance issues. Therefore, the failure to address Student B's truancy in the IEP constitutes a procedural violation in the development of Student B's IEP.

The District failed to develop an appropriate IEP for Student C. Despite providing student with specially designed instruction in three academic areas, Student C's truancy and misconduct behaviors formed an ongoing impediment to their educational progress last year. The excessive number of absences and recommendation to continue Student C's BIP into the current school year demonstrates a failure on the part of the District to review and revise Student C's IEP in the face of mounting evidence (grades, progress reports, attendance records) that Student was making minimal progress. Thus, Student C's IEP was not properly developed.

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

Issue No. 2

Whether the District denied Students' parents a meaningful opportunity to participate in IEP meetings, in violation of 34 C.F.R. § 300.501(b) and 6.31.2.13(C) NMAC.

Both federal and state regulations require the parents of a child with a disability to be afforded an opportunity to participate in meetings with respect to the educational placement of the child. 34 C.F.R. § 300.501(c); 6.31.2.13(C) NMAC. A school district must arrive to an IEP team meeting with an open mind as to a parent's opinions on what is necessary to support their child's education. *E. R. by E. R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 769 (5th Cir. 2018).

Evidence of parental participation for the non-profiled students was readily apparent. Prior written notices documented parental input at the May 2022 and September/October 2022 IEP team meetings including whether parents agreed to or declined compensatory social work and psychological services. When a parent/guardian had a concern about their child's IEP, the IEP team discussed it during the IEP team meeting. This evidence supports a finding that the District enabled parental participation among the non-profiled students.

Furthermore, the District took adequate steps that enabled the parents/guardians of Students A, B, and C to meaningfully participate in the IEP team meetings. The Guardian of Student A advocated for additional support for student at the September 19, 2022 IEP meeting, and the District responded accordingly by providing increased specialized instruction and compensatory services. When compensatory services were offered to Student B at the May 20, 2022 IEP team meeting, the District accepted the Guardian's view that they were unnecessary. Similarly, the District agreed with the Parent's preference for Student C to only receive two hours instead of the six and a half hours offered in compensatory social work services. Here, the District listened to the views or concerns of the parents/guardians thereby enabling meaningful parental participation at the IEP team meetings.

As to Issue No. 2, the District is not cited.

Issue No. 3

Whether the District's actions and/or omissions towards the Students 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.

A student eligible for special education is entitled to a free appropriate public education (FAPE). 34 C.F.R. § 300.101; 6.31.2.8 NMAC. School districts are obligated to provide FAPE for each student eligible in their district. 6.31.2.9(A), 6.31.2.11(l)(2) NMAC. If an IDEA procedural violation occurs, that violation will constitute a denial of FAPE only if it: (1) resulted in substantive harm to the child or their parents; (2) deprived an eligible student of an IEP; or (3) resulted in the loss of

an educational opportunity. *Boutelle v. Bd. of Educ. of Las Cruces Pub. Sch.*, No. CV 17-1232 GJF/SMV, 2019 WL 2061086, at *7 (D.N.M. May 9, 2019). The substantive legal standard for determining whether a District has offered a student FAPE is whether an IEP is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 197 L. Ed. 2d 335 (2017).

Student A was denied FAPE for the 2021-2022 school year. The development of Student A's IEP was procedurally flawed because the lack of any form of teacher instruction resulted in the loss of an educational opportunity for Student A. Student A displayed significant behavioral needs and the District used a point system and EA support to reinforce more positive behaviors. However, inappropriate behaviors were not a justification for depriving Student A of instruction from a teacher. Therefore, Student A's 2021-2022 IEP was not substantively adequate because the omission of academic instruction was not a reasonably calculated means of enabling Student A's educational progress.

Irrespective of whether Student B's absences stemmed from their disability, the District's inaction in addressing the truancy via the IEP resulted in a denial of FAPE. Attendance was a major barrier to learning that resulted in Student B making minimal progress in their IEP goals and either failing or not receiving a grade for three academic courses. While the District did change classes for Student B to avoid further conflict with another student, no additional steps such as behavior interventions (Functional Behavior Assessment and/or BIP) or a reevaluation were considered by the District. This issue is further underscored by the fact that this school year Student B continues to accumulate course absences, is making insufficient progress in their IEP goals, and remains at-risk of failing multiple academic courses. The evidence supports a finding that Student B was denied FAPE for the 2021-2022 and 2022-2023 school years.

Student C was similarly denied FAPE because the District did not sufficiently address truancy throughout the 2021-2022 school year. In this case, the District did craft a new BIP at the January 13, 2022 IEP team meeting yet the crux of the plan was focused on self-control and reducing social maladjustment. When the IEP team met again on May 9, 2022, there was no discussion regarding attendance or revising the BIP to focus on truancy even though excessive course absences contributed to Student C failing four courses and making insufficient progress in their IEP goals. As such, Student's IEP was substantively deficient because it did not attend to truancy as a barrier to their learning.

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

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. §§ 300.34, 300.39, 300.320–300.328 and 6.31.2.11(B) NMAC.	The District failed to develop appropriate Individualized Education Programs (IEPs) for Students that were enrolled in the District’s BBI program.
34 C.F.R. § 300.101 and 6.31.2.8 NMAC.	The District’s actions and/or omissions towards the Students resulted in a denial of a free appropriate public education (FAPE) to the Students.

Required Actions and Deadlines

By December 16, 2022, the District’s Special Education Director must assure the SED in writing that the District will implement the provisions of this Corrective Action Plan (CAP). The SED 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@ped.nm.gov

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 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 August 31, 2023 and reported to the SED no later than September 14, 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 District</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 SED Corrective Action Plan Monitor that it will abide by the provisions of this Corrective Action Plan (CAP).	December 16, 2022	Written Assurance Letter/Email	December 16, 2022
2.	The District Special Education Director, and the school principal shall meet with the PED SED Education Administrator assigned to the District and the PED SED 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 or school administrators or personnel in this meeting. The District Director shall be responsible for arranging this meeting with SED.	January 6, 2023	Notes from meeting prepared by the District	January 11, 2023
3.	The District Special Education Director will meet with Student’s special education teacher, principal and teachers to review the Complaint Resolution Report to ensure that those persons understand the complaint, the violations that were found, and the	January 13, 2023	Notes from meeting prepared by the District	January 20, 2023

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>
	corrective actions that will be taken to address the violations.			
4.	<p>The District shall arrange to provide training to District staff including special education teachers, special education administrators, related service personnel, educational diagnosticians and evaluators regarding:</p> <p>(1) Addressing truancy in an IEP; and</p> <p>(2) Strategies for assisting students with mental health or behavioral needs.</p> <p>The District shall provide this training through an independent person who was not involved in the District's response to this state complaint and has expertise in special education requirements.</p>	February 24, 2023	<p>Confirmation of the date(s) of the training.</p> <p>Confirmation of attendees at the training with submitted documentation of signed attendance sheet from all attendees and plan for addressing the provision of training to those staff not in attendance.</p> <p>Submission of proposed trainer and trainer's resume and proposed presentation for NMPED approval.</p>	<p>January 27, 2023</p> <p>March 10, 2023</p> <p>January 13, 2023</p>
5.	District shall continue its attempts to conduct a reevaluation of Student A.	February 1, 2023	Reevaluation Report if completed or communication/emails with Student or Guardian and Documentation of Student refusal.	February 15, 2023

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>
6.	<p>The District will convene facilitated IEP (FIEP) meetings for Students A, B, and C, respectively.</p> <p>The FIEP meeting for Student A shall address:</p> <ol style="list-style-type: none"> 1. Student A’s least restrictive environment; 2. Appropriateness of current educational placement; 3. Adequacy of current BIP; and 4. Review results of reevaluation (to the extent possible). <p>The FIEP meeting for Student B shall address:</p> <ol style="list-style-type: none"> 1. Attendance; and 2. Strategies or goals for developing Student’s emotional awareness, self-advocacy, and self-regulation. <p>The FIEP meeting for Student C shall address:</p> <ol style="list-style-type: none"> 1. Attendance; and 2. Adequacy of current BIP. <p>Students shall be invited and included in the FIEP meeting at Students’ and Parents’ discretion.</p> <p>The Facilitator shall be independent of the District and shall be selected</p>	January 27, 2023	<ol style="list-style-type: none"> 1. Invitation to IEP meetings, 2. IEPs, 3. Prior Written Notices, and 4. Agenda for FIEP team meetings 	15 days after the FIEP meetings are held

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>
	<p>from the PED list of approved facilitators. The Facilitator shall be paid for by the District.</p> <p>The FIEP meeting shall be held on a date and time that is convenient for the parents. The parents will be provided with a copy of the IEP and PWN at the conclusion of the FIEP meeting.</p>			
7.	<p>The District shall arrange separate meetings with Students B and C (and their Parents/Guardians) to develop an individual attendance improvement plan for each Student.</p> <p>District may discuss and complete the individual attendance improvement plan as part of the FIEP meeting required in Step 6.</p>	January 27, 2023	Individual Attendance Improvement Plan	February 3, 2023
8.	<p>The District shall provide Student A with the following compensatory education:</p> <ul style="list-style-type: none"> a. 25 hours of one-to-one math instruction; and b. 25 hours one-to-one reading instruction. <p>The District shall notify the Guardian in writing of this Complaint Resolution Report and of the requirements for compensatory education within three weeks from</p>	<p>August 31, 2023</p> <p>December 23, 2022</p>	<p>Documentation of delivery/provision of compensatory education services, including logs of services.</p> <p>Letter sent to Guardian with information about the CRR and compensatory education services.</p>	<p>Monthly from date of compensatory services plan until the compensatory education hours are completed</p> <p>January 13, 2023</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>the date of the issuance of this report. The Guardian shall have two weeks to respond to the District indicating the acceptance or rejection of the compensatory education award.</p> <p>The District shall only continue to fund and provide private services to the extent that Student is attending the service sessions. The District shall notify the PED SED CAP monitor if Student fails to attend 5 consecutive scheduled service sessions without canceling the session with the District or service provider at least one day prior to the sessions. The CAP monitor will determine appropriate action regarding compensatory education and notify the District of the decision.</p>		<p>Response from Guardian accepting or declining some or all of the compensatory education</p> <p>Prior Written Notice containing a plan for compensatory services.</p>	<p>January 21, 2023</p> <p>15 days after the FIEP meeting is held</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/ Michael Gadomski

Michael W. Gadomski, Esq.

Complaint Investigator

Reviewed by:

/s/ Miguel Lozano

Miguel Lozano, 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.

Deborah Dominguez-Clark

Director, Special Education Division