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NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Case No. 2223-22
December 19, 2022

This Report requires corrective action. See pages 11-19.

On October 20, 2022, a complaint was filed with the New Mexico Public Education Department's Special Education Division (SED) 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 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 Guardian, Special Education Directors and Exceptional Services Executive Director;
- 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.

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 improperly implemented IEPs for the named Student and other students by failing to have consistent, qualified educational assistants, special education teachers and service providers available at the District school for students in need of special education in violation of 34 C.F.R. § 300.323 (c) and (d) and 6.31.2.11(B) NMAC;
2. Whether the District’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

Background Information on Student A

1. At the time of the complaint filing, Student A was six years old and in a special education classroom full time. There was a February 10, 2022 IEP that listed an evaluation completed on March 24, 2021. That evaluation was not originally provided to the Investigator. There was an April 12, 2019 evaluation completed when Student transitioned from IDEA Part C to Part B services.
2. The results of that evaluation indicated that Student A had low cognitive skills, low receptive and expressive language skills, and low scores in social-emotional and adaptive

skills. Student A was often in constant motion, and experienced difficulty focusing, and following directions.

3. A 2020 evaluation by the University of New Mexico Center for Development and Disability (UNMCDD) did not diagnose autism, but the IEP team agreed at the April 27, 2022 Addendum IEP meeting to evaluate Student A in the area of auditory processing and autism.
4. Student A was determined eligible for special education under the category of developmental disability (DD). Student A's secondary disability was speech or language impairment. There were also concerns noted about autism and attention deficit hyperactivity disorder (ADHD).
5. Student A's needs identified in the February 10, 2022 IEP included reading, math, communication, social emotional, fine motor skills and sensory processing. However, the present levels of academic achievement and functional performance (PLAAFP) did not provide specific information regarding needs in any of those areas.
6. During the 2021-2022 school year, Student A was in a regular education kindergarten classroom receiving 3.5 hours of special education services per week.
7. There was an IEP addendum meeting on April 27, 2022 when occupational therapy services were increased to 4.5 hours of special education services.
8. Student A had six goals in reading, written language, social emotional, sensory process/sustained attention and two in communication.
9. During the 2021-2022 school year, Student A was in a regular kindergarten classroom. During the 2022-2023 school year, Student A was in a special education classroom for the majority of the day.
10. During the 2022-2023 school year, Student A received 27.5 hours of special education and related services in a special education classroom. Student A was to receive 60 minutes per week of occupational therapy (OT), 30 minutes a week of social work services, 60 minutes per week of speech services, 450 minutes per week of math, 450 minutes per week in reading and 600 minutes a week in functional living skills.
11. With this schedule, Student A should have received 90 minutes a day of math and reading skills and 120 minutes a day of functional living skills all five school days.
12. The special education teacher provided a schedule for Student A but a review of that schedule indicated that Student A never received all of the special education services required by the IEP. The schedule did not specify reading, math and functional living skills instruction but instead listed "teacher/independ," for 30 minutes in the morning and 30 minutes in the afternoon.
13. Student A's special education teacher for the 2022-2023 school year had the appropriate licensure.
14. The IEP does not provide the reason that Student A's least restrictive environment (LRE) changed for the 2022-2023 school year. Furthermore, due to the lack of PLAAFP included

in Student A's IEP, it is unclear why Student A's placement was changed to a more restrictive placement. Despite this, the PWN indicated that the basis for Student A's placement was the PLAAFP and that instructional setting 2 was the most appropriate setting.

15. The PWN also noted that Student A received accommodations and modifications for the general education setting despite the fact that Student A was in a special education setting for the majority of the day.
16. Although Student A was to receive services in math and functional living, there were no goals in those areas.
17. Student A received extended school year (ESY) services. There was no documentation provided to support that Student A received those services.
18. Guardian provided consent for the District to complete an autism evaluation of Student A on May 4, 2022. Guardian took Student A to UNMCDD for an evaluation and provided a copy of that evaluation report to the District. The District has not completed the autism assessment but will complete the auditory processing assessment at the beginning of the 2023-2024 school year due to Student A's age and maturation.
19. Student A had difficulty maintaining focus and sustaining attention to complete tasks. Student A also has difficulty with sensory processing and with self-regulation.
20. There was a facilitated IEP completed on November 29, 2022. At that time, Guardian requested that Student A be returned to the first-grade classroom with a full time 1-1 aide. The District refused this request, but agreed to collect data and meet again in January to determine how best to meet Student A's needs. This data collection would include a functional behavior assessment (FBA). The IEP noted that behavior was not impacting Student A's learning.
21. In this IEP, more specific information was provided about Student A's mastery of skills and areas of need in reading and math and social skills.
22. Although math was an identified area of need, no math goal was added. Similarly, Student A also received 600 minutes per week of functional living skills in the special education setting, but there was nothing on the modified IEP that outlined needs or goals.
23. Beginning on November 17, 2022, Student A had a long-term substitute teacher or the principal filling in as the special education teacher even though neither were certified, special education teachers. The special education teacher has returned. There has also been a turnover of educational assistants (EA) within the District so there were frequent changes in the adults working with Student A.
24. During the 2021-2022 school year, the District acknowledged that the school was short of speech therapists during the second semester, but Student A received the majority of speech services from a qualified therapy provider for the second semester. There was also a report that the speech clinician hired for the 2022-2023 school year left at the end of the first quarter. Student A did not receive speech services for the second quarter this year.

25. The District has been attempting to hire qualified teachers and certified providers but has been unsuccessful.

Provision of Special Education and Related Services to other eligible students in District

26. This complaint contained additional allegations regarding the provision of services for all special education eligible students at Student A's school.
27. At this school, there were 90 students with IEPs. Thirteen students were gifted, and one student was eligible under both gifted and specific learning disability (SLD).
28. A sample of 25 special education students' files were reviewed to determine if all special education services were provided and whether the providers had the appropriate qualifications.
29. A school day was approximately seven hours, starting at 8:10 a.m. and ending at 3:10 p.m. All students had approximately 1 hour for lunch and recess so there were 6 hours of daily instructional time.
30. Seven students spent the majority or all of their day in a special education classroom. Some students in the sample were inclusion students and some were a combination of resource room and regular education.
31. The District acknowledged that they had difficulty hiring qualified special education teachers and related service providers. Last year, the District reported they did not have a speech clinician and the individual hired for this school year has since left the District.
32. Between October 20, 2021 and October 20, 2022, the school was without one or more speech clinicians, occupational therapists and special education teachers. There was also a frequent turnover of educational assistants at this school.
33. On the District's audit, it was noted that two students did not receive OT services because there was no available OT, however, the service logs provided indicate these students received OT services.
34. In another IEP, it was noted that PLAAFP could not be determined because there was no special education teacher, and the substitute teacher could not assess progress.
35. As part of their resolution, the District proposed audits of all special education students to ensure they were receiving their IEP services from qualified providers. They indicated they were tracking compensatory services and noted those on the prior written notices (PWN).
36. There was no plan provided to the Investigator for the amount and how compensatory services would be provided for any special education students.
37. The audit provided to the Investigator did not correspond to the special education and related services on the 25 IEPs for the students in the sample.
38. There was no documentation provided to the Investigator that Students received all of the services required by their IEPs.

39. The special education teachers did not have services logs but instead provided copies of their schedules for the 2022-2023 school year. A comparison of an individual student's schedule with the student's IEP requirements indicated a discrepancy in the provision of special education services. With some students, related services were provided as stated on the IEP, but special education services in math, reading and functional living skills were often less than required by the IEP. In some cases, less than one-fourth of the minutes that were required on the IEP.
40. The District stated in its response that it was prepared to provide compensatory services for Student but had not determined the amount of needed compensatory services.
41. Since the need for compensatory services was a result of the District's inability to hire and keep qualified staff, it is unclear what the District's plan is for the provision of compensatory services given the lack of qualified providers.
42. Incomplete service logs were provided to the Complaint Investigator which made it impossible to determine if all special education and related services were provided to individual students or whether the person who provided services was appropriately qualified to provide the services, especially during the 2021-2022 school year.
43. In one IEP, it was noted that a goal was repeated because the student did not have a special education teacher but had a substitute teacher and therefore, progress could not be determined.
44. Another student did not receive speech services for at least one quarter because there was no speech therapist.
45. Two other files noted that the students did not receive occupational services because there was no available occupational therapist.
46. In reviewing the IEPs for those students that were in the special education classroom for all or the majority of the day, students would have from 5.3 – 6 hours of special education services daily in a 6-hour school day. The schedules provided did not include the time the students were in special area classes or pulled out for special area classes, science or social studies, breaks or some other activity. Accounting for that time, there was insufficient time in a 6-hour day for students to receive all of the special education and related services on the IEP.
47. For example, one student was to receive 780 minutes in ELA and 780 minutes in math specialized instruction every week plus speech, OT and social work as related services. The student's schedule did not allow for all these required services.
48. Another student who was in a special education room for the majority of the day, was to receive 660 minutes of functional living skills in addition to 60 minutes of speech and 60 minutes of social work. The schedule did not provide for all of the listed services on the IEP.
49. The District provided schedules for students that were in the special education classroom for the majority of the day. In comparing students' schedules with services outlined on their IEP,

it appeared that students' academic services (reading, math, language arts) provided in the classroom did not match the amount of service required by their IEPs.

50. With some students, the schedule did not account for all of the special education services listed on their IEPs. In some instances, math functional or behavior services were not provided.
51. One student was scheduled to receive services in special education, but this student was only in the resource room, as needed. Conversely, two other students who were to receive services in regular education were on the resource room schedule.
52. Other information provided by the District regarding the 77 special education students conflicted with the audit and IEPs provided for the 25 special education students in the sample.
53. In the original logs provided, of the 77 special education students, at least 36 did not receive all of their services from an identified provider. 43 students received their services from a named provider.
54. Without a complete audit of all special education students at this school including service logs, it is impossible to determine what special education services were provided and by whom.

Discussion and Conclusions of Law

Issue No. 1

Whether the District improperly implemented IEPs for the named Student and other students by failing to have consistent, qualified educational assistants, special education teachers and service providers available at the District school for students in need of special education in violation of 34 C.F.R. § 300.323 (c) and (d) and 6.31.2.11(B) NMAC.

Each 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. 34 C.F.R. § 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. 6.31.9.(B)(9)(a). See also 34 C.F.R. § 300.156. Related service providers must also be qualified or certified. 34 C.F.R. § 300.34 (c). The qualification for special education teachers is addressed in state law. See 6.61.6 NMAC.

The District acknowledged that they had a shortage of special education teachers and related service personnel at the school Student A attended both during the 2021-2022 and 2022-2023

school years. In the Spring semester of the 2021-2022 school year, it was reported that the speech clinician that had worked at the school the first semester, did not return for the second semester. This year, one of the speech clinicians was only at the school during the first quarter. Therefore, students did not receive speech services for the second nine weeks. Students on that speech therapist's caseload were denied services. The lack of complete service logs limited the ability to determine what services were provided to students.

Student A had a series of educational assistants and substitute teachers, including the principal that provided specialized instruction to this Student. The certified special education teacher was gone for two weeks, and a substitute teacher worked with Student A. Student A did not receive speech services for nine weeks. There was also a major turnover in educational assistants which impacted Student A's ability to access the educational curriculum. Many of these temporary staff members were not certified or licensed to provide special education or related services.

The service logs provided by the District were incomplete, inconsistent and difficult to interpret. Thus, it was impossible to determine if the 25 students in the sample received all of their services and whether the service provider was appropriately qualified. The audit, other information and IEPs provided indicate that it was common for students to not receive all of their services since there was a shortage of qualified service providers. Students either did not receive all of their services or the services were provided by unqualified personnel.

The District reported that they were planning on completing an audit of special education eligible students at this school. The District provided the audit for the 25 students in the sample to the Investigator but it did not correspond to the IEPs for those 25 students in the sample. The District also reported that they were tracking the need for compensatory services and they were noted on individual students' PWNs. The need for compensatory services was not noted on Student A's IEP or PWN and there was no other documentation of the compensatory services tracking provided to the Investigator. Thus, without documentation of the services and whether the provider was qualified, it would appear that many of the remaining 76 students did not appear to have qualified providers or to have received all of the services required by their IEPs.

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

Issue No. 2.

Whether the District'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.

Students who are eligible for special education services are entitled to a free appropriate public education (FAPE). 34 C.F.R. § 300.101; 6.31.2.8 NMAC. Districts are obligated to provide a FAPE to students within their jurisdiction who have been determined eligible for special education services. 34 C.F.R. § 300.17. The determination of whether there has been a denial of FAPE requires consideration of two components: substantive and procedural. The question one must answer to determine the substantive standard is whether the IEP was “reasonably calculated to allow the child to make progress appropriate in light of the child’s circumstances.” *Andrew F. v. Douglas County School District. RE-I*, 137 S. Ct. 988 (2017). The Court in *J.L. v. Mercer Island School District*, 592 F3d 938, 951 (9th Cir. 2010), held that a procedural violation may be a denial of FAPE when it resulted in the loss of an educational opportunity, infringed on parents' opportunity to participate in the development of the IEP or deprived the student of an educational benefit. All circumstances surrounding the implementation of the IEP must be considered to determine whether there was a denial of FAPE. *A.P. v. Woodstock Board of Education*, 370 F. Appx. 202 (2d Cir. 2010).

The IEPs for Student A that were reviewed by the Investigator listed categories of need such as reading, math, and sensory processing but there was no information on the PLAAFP section of the IEP that listed the strengths and needs in a specific area. Without that information, it would be impossible to develop appropriate goals to allow the child to make educational progress. In addition, the February 10, 2022 IEP noted that Student A had needs in math and received 450 minutes per week of specialized instruction in math without a goal or documentation of Student A’s needs in math. Student A also received 600 minutes per week in functional living skills without a goal or any listed needs in the PLAAFP. This IEP was not reasonably calculated to allow the child to make progress in light of Student A’s circumstances. This was a substantive denial of FAPE.

Furthermore, Student A and the other special education students at school often did not have qualified providers and/or did not receive the services outlined on their IEPs. The IEP provides the services and supports an individual child needs to make educational progress. Failure to implement a student’s IEP by failing to provide the required services or having qualified providers available to provide those services denied those students an educational opportunity and deprived them of educational benefits.

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

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. §§ 300.320-300.328; 34 C.F.R. § 300.156; 6.31.2.11(B)(1) NMAC and 6.31.2.9 (9)(a)	The District improperly implemented IEPs for named Student A and other students by failing to have consistent, qualified educational assistants, special education teachers and service providers available at the District school for students in need of special education
34 C.F.R. § 300.101 and 6.31.2.8 NMAC.	The District's actions and/or omissions towards the Student A and students resulted in a denial of a free appropriate public education (FAPE).

Required Actions and Deadlines

By January 3, 2023, 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 December 19, 2023 and reported to the SED no later than December 31, 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).	January 3, 2023	Written Assurance Letter/Email	January 3, 2023, 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	January 13, 2023	Notes from meeting prepared by 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>
	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.			
3.	The District Special Education Director will meet with Student A's special education teachers, principal, and general education teachers to review the Complaint Resolution Report to ensure that those persons understand the complaint, the violations that were found, and the corrective actions that will be taken to address the violations.	January 20, 2023	Notes from meeting prepared by District	January 27, 2023
4.	District shall complete the previously planned autism evaluation for Student A.	February 6, 2023	Completed autism evaluation report.	Within 15 days of completing the evaluation report.
5.	District shall complete the previously planned auditory processing evaluation for Student A.	August 31, 2023	Completed auditory processing evaluation report.	Within 15 days of completing the evaluation report.
6.	District shall determine if additional evaluations are needed, including ADHD, to determine Student A's comprehensive needs and PLAAFP and to develop an IEP that provides Student A with a FAPE. If additional assessments or data are needed, the District will obtain consent for those assessments as soon as practical.	All additional evaluations shall be completed within 60 days of obtaining parental consent.	Signed parental consent form for any additional assessments. Evaluation reports for any additional assessments.	March 10, 2023 Within 14 days of completing evaluations

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>
7.	<p>The District shall participate in an audit of student files conducted by auditors with special education program experience appointed by the PED to determine whether and to what extent the school, using appropriately certified staff, provided special education and related services to its special education students between October 20, 2021 and December 19, 2022.</p> <p>The appointed auditors will determine the start date and schedule for the audit. District shall provide any support and access to all documentation and information requested by the auditors throughout the course of the audit. Any failure to cooperate with the auditors may result in further corrective action.</p> <p>This audit will be conducted in conjunction with any and all other audits ordered in response to the findings of this investigation.</p>	March 31, 2023	Audit Report to be provided by PED appointed auditors	April 21, 2023
8.	The District shall create and provide a plan to PED to offer and provide compensatory education to students who missed special education or related services minutes at the School during the above period as identified in the audit report. The plan shall include deadlines for the notification letter to parents to be approved by PED, subsequent IEP meetings to discuss compensatory	March 31, 2023	Written compensatory education plan Notification Letter template to be approved by PED	March 31, 2023 March 31, 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>
	education and the completion of compensatory education hours.			
9.	<p>District shall offer and provide compensatory education to all students that missed services during the identified period in the amount identified in the audit report.</p> <p>District shall maintain a tracker that includes the total compensatory hours owed to each student, whether those hours were accepted by the student’s parents, and the provision of compensatory education hours provided to each student.</p> <p>If a parent declines compensatory education, the District shall get a confirmation in writing and provide the written confirmation to PED.</p> <p>District shall complete all compensatory education hours by December 19, 2023. These compensatory services are above and beyond the regular services required by Student’s IEP. The schedule for compensatory services should be developed in collaboration with the parents and can include provisions for services in the summer months.</p> <p>If the District, due to staffing or other limitations, is unable to provide the compensatory services as required by this CAP, the District</p>	December 19, 2023	<p>Compensatory Education Tracker/Log</p> <p>Written confirmation of Parent’s decision to decline compensatory education services.</p>	<p>Monthly until all compensatory education has been provided.</p> <p>Forward when all parents’ decisions have been received and documented.</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>
	is required to contract with a private provider to ensure those services are provided.			
10.	<p>The District shall provide the following compensatory education to Student A:</p> <ul style="list-style-type: none"> • 450 minutes of speech therapy, • 1000 minutes of services in reading, math, and functional skills. The IEP shall determine the distribution of minutes between these three service areas. <p>The plan for compensatory services shall be documented in the PWN(s) for the Facilitated IEP meeting(s) as well the IEP resulting from Step 11.</p> <p>These compensatory services are above and beyond the regular services required by Student’s IEP. The schedule for compensatory services should be developed in collaboration with the parent and can include provisions of services in the summer months.</p> <p>If the District, due to staffing or other limitations, is unable to provide the needed IEP and compensatory services as outlined in Student’s IEP and the compensatory services plan, the</p>	June 30, 2023	<p>Documentation of delivery/provision of compensatory education services, including logs of services and progress reports</p> <p>Prior Written Notice containing plan for compensatory services.</p>	<p>Monthly from the date of this report until the compensatory education hours are completed</p> <p>15 days after the FIEP meeting is held</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>
	District is required to contract with a private provider to ensure those services are provided.			
11.	<p>After the scheduled autism evaluation for Student, the District shall convene a facilitated IEP meeting as soon as possible. The FIEP meeting shall address:</p> <ul style="list-style-type: none"> • Provision of compensatory services order in Step 10 and a plan to provide those services • Whether additional evaluations or recovery services are warranted; • Determination of Student’s Least restrictive environment (LRE); • Determination and documentation of the PLAAFP and appropriate measurable goals for each area of need where special education and related services are provided. • Updated FBA and BIP if needed, as determined by the IEP team • Periodic progress reporting plan to ensure effectiveness of IEP and BIP and next steps, if progress is not observed. • Maintenance of service logs to document provision of 	February 28, 2023	<ol style="list-style-type: none"> 1. Invitation to FIEP meetings, 2. IEPs, 3. Prior Written Notices, and 4. Agenda for FIEP team meetings 	15 days after the FIEP meeting is held

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>services, progress made and provider.</p> <p>The Facilitator shall be independent of the District and shall be selected from the PED list of approved facilitators. The Facilitator shall be paid for by the District.</p> <p>The FIEP meetings shall be held on a date and time that is convenient for the parent. The parent will be provided with a copy of the IEPs and PWNs at the conclusion of the FIEP meetings.</p> <p>The District shall ensure that the FIEP team includes, but is not limited to, parents, special education teacher, general education teacher, and any related services providers.</p>			
12.	<p>The District shall arrange to provide training to District staff (including special education teachers, special education administrators, and related service personnel), on the following special education topics:</p> <ul style="list-style-type: none"> • Developing and implementing an appropriate IEP that includes providing services and supports for all areas of eligibility; • Developing appropriate individualized measurable 	March 3, 2023	<p>Confirmation of the date of the training</p> <p>Confirmation of attendees at the training and plan for addressing provision of training to those staff not in attendance</p>	<p>February 3, 2023</p> <p>March 10, 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>goals that address a student's individual needs in all areas of disability;</p> <ul style="list-style-type: none"> • Completing timely assessments in all suspected areas of need and ensuring needed data is available to the IEP team in the development of the IEP; • Development of appropriate FBA and BIPS and revising as needed; • Preparation of a PLAAFP that provides a statement of the child's present levels of academic achievement and functional performance, and how the child's disability affects the child's involvement and progress in the general education curriculum. <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>January 16, 2023</p>
13.	<p>District will develop and submit a comprehensive plan to address the recruitment and retention of qualified and licensed special education staff including special education teachers, EAs, and related service providers at this School.</p>	February 3, 2023	<p>Comprehensive Plan to address recruitment and retention of licensed special education staff</p>	February 10, 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>
	The District shall consider virtual options for service provision as part of its plan.			
14.	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 at this school which shall include recruitment from both inside and outside of the State.	Ongoing starting February 28, 2023	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 at this School.

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/ Michelle Bennett
Michele K. Bennett, 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