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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Mimbres School
Case No. C2223-46
June 16, 2023**

This Report requires corrective action. See pages 13-18

On April 20, 2023, there was a complaint filed with the New Mexico Public Education Department's (NMPED) 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 Parent, School Director, Nursing Officer, and Teacher; 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.

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 School failed to develop and implement an Individualized Education Program (“IEP”) that was based on Student’s individual learning needs, in violation of 34 C.F.R. §§ 300.323–300.328 and 6.31.2.11(B) NMAC;
2. Whether the School failed to conduct progress monitoring of Student annual IEP goals, in violation of 34 C.F.R. § 300.320(a)(3) and 6.31.2.11(B) NMAC;
3. Whether the School failed to educate Student in the least restrictive environment (LRE), in violation of 34 C.F.R. § 300.114 and 6.31.2.11(C) NMAC; and
4. 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. Student is in the third grade and eligible for special education under the classification of Other Health Impairment (“OHI”).
2. Student has various medical conditions including, generalized epilepsy with febrile seizures and a major neurocognitive disorder.

3. Due to Student's ongoing treatment for these conditions, Student began attending the Mimbres School (embedded within the Children's Hospital of the UNM Health System) in May 2021 at the request of the Parent.
4. The Mimbres School is a state-supported educational program² serving students who are patients in the Children's Psychiatric Hospital or the Child Life Program. The latter program is designed to help young patients manage medical treatment regimens by working with childhood development specialists.
5. Student began the 2021-2022 school year at the Mimbres School going to the classroom located within the Child Life Program of the UNM Children's Hospital.
6. During the second semester of the 2021-2022 school year, Student stopped attending the Mimbres School in-person.
7. Parent reported that the reason that Student ceased in-person learning was because Student sometimes had incontinence at school and the Mimbres School did not have staff (such as a school nurse) who could promptly address Student's periodic loss of control over their urination or defecation. In addition, Parent discussed how medication to treat Student's medical conditions would leave Student lethargic and at times this side effect limited Student's capacity for full-day learning.
8. The School Director stated that Parent expressed a preference to keep Student at home and learn through a remote instruction model. The Mimbres School permitted this arrangement.
9. Student remained at home for the remainder of the 2021-2022 school year and the Mimbres School provided Student remote learning opportunities by having Teacher conduct online instruction via Zoom totaling one hour per day.

2022-2023 IEP

10. An annual review IEP meeting was held on May 27, 2022.
11. Parent, School Director, and Teacher attended the meeting.
12. The IEP recommended at this meeting consisted of specialized instruction in reading, written language, math, and language arts at a frequency of 300 minutes per week in each subject. This amounted to a total of 20 hours per week of special education programming.
13. Corresponding IEP goals were created to focus on Student's deficits in reading, written language, math, and communication.

² 6.31.2.7(B)(21) NMAC defines a state-supported educational program as "a publicly-funded program that: (a) provides special education and related services to children with disabilities who come within the program's educational jurisdiction; (b) is operated by, or under contractual arrangements for, a state school, state educational institution, other state institution, state hospital, or state agency; and (c) is primarily funded through direct legislative appropriations or other direct state support to a public agency other than a local school district."

14. Accommodations and modifications listed in the IEP provided an array of strategies to ensure Student could access classroom instruction and materials.
15. The educational placement proposed in the 2022-2023 IEP was in-person, classroom learning at the Mimbres School.
16. During their interviews, School Director and Teacher confirmed that the IEP was developed with the expectation that Student would physically attend Mimbres School for the 2022-2023 school year.
17. Parent expressed a different recollection of the IEP meeting in that she believed Mimbres School staff knew Student would remain on remote instruction and the level of specialized instruction in the 2022-2023 IEP was recommended in consideration of this continued placement.
18. The School Director said that at the end of each school year, every student at the Mimbres School is assessed as to whether they should continue attending the program or return to their local school district.
19. At the May 27th IEP team meeting, the IEP team determined that Student's medical needs still required the low student-teacher ratio and intensive instruction available at the Mimbres School.
20. As further explained by the School Director, the IEP team's LRE determination was based on the consensus among IEP team members that Student was medically capable of attending school in-person on a regular basis.

2022-2023 School Year

21. Pursuant to Parent's preference, Student received remote instruction throughout the entire 2022-2023 school year.
22. Teacher reported that Student was the only pupil at the Mimbres School who did remote instruction this past year.
23. A remote instruction schedule was created between Parent and Teacher in which Student would receive 30 minute Zoom sessions on Tuesdays and Thursdays.
24. An IEP team meeting was not held to revise Student's IEP to reflect the change in placement and frequency of specialized instruction, nor was an IEP addendum agreed to by the Parent.
25. Parent described how Student initially used Edgenuity, an online curriculum and learning program, but then remote learning gradually shifted to Prodigy Math, Epic digital library, and the Istation e-learning program for benchmark testing.
26. There was a lack of consistency in the remote instruction. According to records provided by the Mimbres School, 53 one-on-one Zoom sessions between Student and Teacher

- were cancelled by the Parent for reasons such as doctor's appointments, illness, hospital visits, surgery, and therapy. Make-up sessions for missed instruction were not arranged.
27. No formal attendance interventions were carried out by the Mimbres School. The School Director explained that the school's attendance policies are based on communicating directly with Parents to encourage improvement in a student's attendance.
 28. In the context of this case, School Director discussed how the Mimbres School is different from other state-supported educational programs in that families/students are permitted to choose remote instruction and adherence to attendance rules is not rigidly enforced.
 29. Throughout the course of the 2022-2023 school year, staff (including Student's specific Teacher and the School Director) at the Mimbres School communicated with Parent about Student returning for in-person learning and Parent appeared to express an intent to have Student transition back to school. For example, school records show that staff spoke with Parent on February 22, 2023 and they were informed by Parent that she wished to have Student return to in-person learning at the Mimbres School. Parent revisited the topic with school staff in April 2023 but again declined in-person learning because she did not want to have Student wearing a diaper in class. As a result, Student did not transition to the classroom setting this school year.
 30. Teacher said she expressed concerns to School Director about Student not attending Zoom sessions regularly, Parent not following through on commitments for Student to resume in-person learning, and Student not being offered socialization opportunities due to the Parent's postponement of transitioning Student back to in-person learning at the Mimbres School.
 31. Teacher was advised by School Director to afford Student flexibility with regards to their attendance and remote instruction.
 32. The School Director pointed to the ongoing communication with Parent and the expectation that Student would return to in-person learning as reasons why the 2022-2023 IEP was not revised. The School Director also explained that outpatient students at the Mimbres School present a unique situation because the criteria for outpatient student enrollment, attendance, and transitioning back to home school districts are less clear than for students who are actively receiving treatment at the hospital.
 33. Teacher used Istation to monitor Student's progress on his reading and math goals. Teacher said she could not monitor Student's writing goal over Zoom so writing assignments were sent to Student but Student never returned any completed assignments. Lastly, the Scholastic program was used to monitor Student's communication goal and Teacher reported that Student met this goal as measured through observation during Zoom sessions.
 34. Student's Istation scores show a lack of progress in math and uneven progress in reading skills (Teacher reported Student as having completed 70% of their reading goal).

35. The School Director confirmed that Istation reports were produced in lieu of quarterly progress reports.
36. Parent said that no quarterly parent-teacher conferences were held this past school year to review Student's progress with Teacher. Parent did not know the reason why no conferences were scheduled.
37. School Director said that Student's grades for the 2022-2023 school year would be based on their level of progress in online learning programs. No formal report card was produced by the Mimbres School as part of this investigation.

Mimbres School 2022-2023 Handbook

38. A copy of the Mimbres School 2022-2023 Handbook ("Handbook") was provided by the Parent.
39. The Handbook contains a series of general policies related to the educational program at the Mimbres School.
40. A provision within the Academic Policy section pertains to IEPs. The provision states that the School will "follow the IEP [of each enrolled student] to the best of our abilities," no related service providers are employed at the School, and staff will discuss accommodations and modifications with parents.
41. Another paragraph touches on progress reporting for students with IEPs. It states that progress reports will be offered during quarterly parent-teacher conferences.
42. There are policies concerning student attendance in the handbook. The Mimbres School stated in the handbook that students are required to attend school on a daily basis in compliance with state compulsory school attendance laws.
43. According to the handbook, the daily attendance requirements apply to both students attending in-person and those receiving remote instruction. If a student on remote instruction cannot attend, then the parent is supposed to contact the teacher and provide a reason for the absence (otherwise the missed school day will be marked as an unexcused absence).
44. The list of reasons for an excused absence are Family Emergency or Bereavement, Illness, Medical Procedure, Legal Requirement, Religious Observation, and College Visits.
45. Handbook policy permits students to be absent for an extended period of time due to a medical condition. The policy dictates that no student will be removed from the Mimbres School educational program while undergoing medical procedures.
46. However, a separate policy provision states that a student "may be withdrawn from the program due to lack of participation or excessive unexcused absences." If a student is at risk of being withdrawn, the Mimbres School will send a truancy letter by mail to the parent.

47. For remote learning, the policy is that a student must “log on for at least 30 minutes of non-idle time to be considered in attendance for the day.”

Discussion and Conclusions of Law

Issue No. 1

Whether the School failed to develop and implement an Individualized Education Program (“IEP”) that was based on Student’s individual learning needs, in violation of 34 C.F.R. §§ 300.323–300.328 and 6.31.2.11(B) NMAC.

At the start of each school year, a local educational agency must have an IEP in effect for each special education student. 34 C.F.R. § 300.323(a). Once an IEP is developed, the special education and related services outlined in the document must be made available to the student. 34 C.F.R. § 300.323(c)(2). A material failure to implement an IEP occurs when there is more than a minor discrepancy between the services a school provides to a child with a disability and the services required by the IEP. *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 822 (9th Cir. 2007). The proportion of services required in an IEP compared to the services provided is a crucial measure for purposes of determining whether there has been a material failure to implement it. *Turner v. D.C.*, 952 F. Supp. 2d 31, 41 (D.D.C. 2013). There is a material deviation from the implementation of an IEP when a student receives a substantially lower proportion of their prescribed hours of specialized instruction. *Holman v. D.C.*, 153 F. Supp. 3d 386, 393 (D.D.C. 2016).

Here, the Mimbres School properly developed an IEP for Student to be implemented during the 2022-2023 school year. The IEP was designed with a robust set of specialized instruction in various academic areas and annual goals that corresponded with Student’s learning deficits. Instructional accommodations and modifications contained in the IEP were designed to facilitate Student’s learning in the classroom at the Mimbres School. For these reasons, the Mimbres School developed an appropriate IEP for Student.

The significant discrepancy between the services recommended in the 2022-2023 IEP versus what the school actually delivered to Student constituted a material failure to implement the IEP. While Student was on remote instruction throughout the 2022-2023 school year, they received approximately 1 hour of specialized instruction per week compared to the 20 hours per week that was mandated in the IEP. The provision of a substantially lower frequency of specialized instruction during this period of remote instruction was not a reasonable alternative or functional equivalent to the volume of services set forth in the IEP. Nor was the IEP revised to reflect how IEP services via remote instruction would be delivered at the reduced amount. As a result, there

was a material deviation from the 2022-2023 IEP because Student received roughly 5% of the specialized instruction specified in the IEP.

The policies pertaining to IEP implementation in the Mimbres School 2022-2023 Handbook contributed to this violation. For instance, the practice of “follow[ing] the IEP to the best of our abilities” is both vague and ignores the legal obligation that a school is required to provide a student with the special education programming and services listed in the IEP. Without a policy that requires an IEP to be implemented with all components, the Mimbres School risks putting their special education students in a position where they may not make progress or even possibly regress in their education. This policy is in need of revision so that IEP implementation procedures at the Mimbres School align with IDEA requirements.

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

Issue No. 2

Whether the School failed to conduct progress monitoring of Student annual IEP goals, in violation of 34 C.F.R. § 300.320(a)(3) and 6.31.2.11(B) NMAC.

The implementing regulations of IDEA require that an IEP describe how a student’s progress towards meeting their annual goals will be measured and when reports of such progress will be provided to the parent. 34 C.F.R. § 300.320(a)(3). A school may decide the methodology of measuring progress towards achieving a goal such as using reading fluency probes to measure a student’s progress in their reading skills. *Matter of G.S. v. Clarksville Montgomery Cnty. Sch. Sys.*, No. 3:21-CV-00364, 2022 WL 4378701, at *3–4 (M.D. Tenn. Sept. 22, 2022). Both standardized tests and informal assessments may be used to gauge a student’s progress in consideration of their individual circumstances. *G.D. by & through Jeffrey D. v. Swampscott Pub. Sch.*, 27 F.4th 1, 11–12 (1st Cir. 2022).

In this case, the Mimbres School failed to demonstrate that progress monitoring was conducted for all of Student’s goals. There is evidence of progress reports for two goals in reading and math because the Istation reports constitute objective data collection on Student’s progress in addressing their deficits in those academic skill areas. Teacher provided a separate progress report for the communication goal which showed that Student achieved this goal. However, there is an omission of information regarding progress towards achieving the written language because the writing goal was not monitored over Zoom. The absence of progress data for the written language goal supports a finding that the Mimbres School failed to conduct progress monitoring for all of Student’s annual IEP goals.

The Mimbres School policy for progress reporting is problematic. In this case, the quarterly parent-teacher conferences were not held which precluded Parent from having an opportunity to receive and review Student's progress reports with Teacher. The issuance of periodic progress reports should not hinge on convening conferences so that parents of students with disabilities may readily obtain information about their child's progress at regular intervals. This policy provision must be amended to improve the consistency of progress reporting at the Mimbres School.

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

Issue No. 3

Whether the School failed to educate Student in the least restrictive environment (LRE), in violation of 34 C.F.R. § 300.114 and 6.31.2.11(C) NMAC.

The least restrictive environment mandate requires school districts to educate special education students with their non-disabled peers to the maximum extent appropriate. 20 U.S.C. § 1412(a)(5)(A). The two-part *Daniel R.R.* test for determining whether a school district has complied with the LRE requirement is: (1) whether education in a regular education classroom with the use of supplementary aids and services can be satisfactorily achieved; and (2) if placement in a regular education classroom cannot be achieved, whether the school district has mainstreamed the child to the maximum extent appropriate. *T.W. v. Unified Sch. Dist. No. 259, Wichita, Kan.*, 136 F. App'x 122, 127 (10th Cir. 2005); *see also Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036 (5th Cir. 1989).

In applying the first prong of this test, courts consider additional non-exhaustive factors including: (1) the steps the school district has taken to accommodate the child in the regular classroom, including the consideration of a continuum of placement and support services; (2) comparison of the academic benefits the child will receive in the regular classroom with those she will receive in the special education classroom; (3) the child's overall educational experience in regular education, including non-academic benefits; and (4) the effect on the regular classroom of the disabled child's presence in that classroom. *G.W. v. Boulder Valley Sch. Dist.*, No. 16-CV-00374-PAB-SKC, 2019 WL 4464130, at *14 (D. Colo. Sept. 18, 2019). A school may decline a parent's request to provide a student with homebound instruction in view of its legal obligation to mainstream the student to the greatest extent possible. *Marc V. v. N. E. Indep. Sch. Dist.*, 455 F. Supp. 2d 577, 593–94 (W.D. Tex. 2006), *aff'd sub nom. Marc V ex rel. Eugene V v. N. E. Indep. Sch. Dist.*, 242 F. App'x 271 (5th Cir. 2007).

Student's situation at Mimbres School presents a unique scenario in the context of Least Restrictive Environment. First off, the Mimbres School classroom embedded within the Children's Hospital combines elements of a self-contained classroom (a program only for students with disabilities) and a special education day program (a school separate from a regular public education school) because Student was initially attending this school with other students with disabilities and the program itself was separate from any public school district. In contrast, Student's long-term placement on homebound instruction for part of the 2021-2022 school year and the entirety of the 2022-2023 school year is one of the most restrictive placements along the continuum because it removed Student from a typical classroom environment and did not afford Student with direct access to peers.

Here, the IEP team determined that Student's LRE placement was the classroom setting at the Mimbres School. Yet Student did not attend this placement because Parent was inclined to continue remote instruction for the 2022-2023 school year. Both School Director and Teacher stated that they communicated with Parent during the past school year about their views that Student could be educated at the Mimbres School as a way to encourage a transition back to the classroom. Though ultimately no transition to a lesser restrictive environment was effectuated because Mimbres School followed a policy of permitting Parent unbound flexibility in maintaining remote instruction at home. Under these circumstances, Mimbres School failed to mainstream Student to the maximum extent appropriate because Student was unnecessarily segregated at home for their education and deprived the benefits of a classroom learning environment among teachers and peers. Therefore, the Mimbres School failed to educate Student in the least restrictive environment during the 2022-2023 school year.

The remote learning policy contained in the Handbook effectively reduces a student's education to a minimum of 30 minutes of instruction per day. This severe limitation on the length of instruction renders remote instruction even more restrictive because a remote student's overall educational experience is largely bereft of any interaction with their teachers. As such, this policy must be reviewed and revised.

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

Issue No. 4

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.

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. A state-supported educational program that accepts a child

with a disability at the request of a parent or upon the request or order of a noneducational public authority, and without inviting the public agency that has primary responsibility for serving the child to participate in the IEP process, assumes all responsibility for ensuring the provision of FAPE. NMAC 6.31.2.11(J)(2). If an IDEA procedural violation occurs, that violation will constitute a denial of FAPE only if it: (1) resulted in a 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).

The cumulative IDEA procedural violations of a material failure to implement the IEP as written and failure to educate Student in the least restrictive environment constitutes a denial of FAPE. The material deviation in how the IEP was implemented deprived Student of an IEP because it resulted in a reduction in services that was not comparable to the array of specialized instruction originally recommended in Student's plan. The least restrictive environment violation resulted in a loss of educational opportunity because Student was deprived of the academic and non-academic benefits of receiving an in-person education from his teachers among student peers. This resulted in a limited form of homebound instruction that was not reasonably designed to enable Student's progress based on their disability-related learning needs. Mimbres School, as the state-supported educational program that accepted Student at the Parent's request, bears the legal responsibility for this denial of FAPE.

Furthermore, the absence of enforceable policies related to student attendance and the duration of homebound instruction led to an excessively accommodating treatment of Student's education. While the Mimbres School serves a unique student population with fluctuating medical needs, the tacit approval of students staying at home and missing large swathes of their instruction presents a hands-off practice that risks giving students a substandard education. The Mimbres School, as a state-supported educational program, is encouraged to provide school-based placements for its students unless exceptional circumstances with supporting medical documentation (long-term or short-term illness/injury) requires a recommendation of homebound instruction by members of the IEP team. The promulgation of policies as to the provision of homebound instruction and attendance interventions would serve to address these issues.

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. §§ 300.323–300.328 and 6.31.2.11(B) NMAC	The School failed to develop and implement an Individualized Education Program (“IEP”) that was based on Student’s individual learning needs.
34 C.F.R. § 300.320(a)(3) and 6.31.2.11(B) NMAC	The School failed to conduct progress monitoring of Student’s annual IEP goals.
34 C.F.R. § 300.114 and 6.31.2.11(C) NMAC	The School failed to educate Student in the least restrictive environment (LRE).
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 free appropriate public education (FAPE).

Required Actions and Deadlines

By **June 26, 2023**, the School’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 June 16, 2024 and reported to the SED no later than June 30, 2024. 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 School 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).	June 26, 2023	Written Assurance Letter/Email	June 26, 2023
2.	The School Director and the Associate Chief Nursing Officer of the Children’s Hospital shall meet with the SED Director, Complaint Investigator, PED SED Education Administrator assigned to the School, and the PED SED CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the School plans to	June 30, 2023	Notes from meeting prepared by the School	July 7, 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>
	take to ensure that the violations are corrected and do not recur. The School Director has the discretion to include other School administrators or personnel in this meeting. The School Director shall be responsible for arranging this meeting with SED.			
3.	<p>The School will revise its Student Handbook to require the following:</p> <ol style="list-style-type: none"> 1. Attendance policy that details a system of interventions to improve in-person school attendance for any enrolled truant student; 2. Enrollment policy laying out qualification criteria for registering students into the Mimbres School and determining when students no longer qualify for the educational program; and 3. Homebound instruction policy that requires the IEP team to decide whether and for how long a student should be educated at home during a period of convalescence. <p>The revised handbook is subject to PED approval.</p>	<p>August 11, 2023</p> <p>July 28, 2023</p>	<p>Copy of Finalized Student Handbook for the 2023-2024 school year.</p> <p>Copy of revised Student Handbook for PED review and approval</p>	<p>August 25, 2023</p> <p>July 28, 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>
4.	<p>The School shall provide training to all instructional and administrative School staff on the following topics:</p> <ol style="list-style-type: none"> 1. Revised Student Handbook provision required in Step 3; 2. Developing and implementing an appropriate IEP that includes providing services and supports for all areas of eligibility; 3. Progress Monitoring and reporting of IEP goals; and 4. Least Restrictive Environment Determination. <p>The training shall be provided by an independent person with expertise in special education who was not involved in responding to this complaint and who is approved by NMPED.</p>	September 15, 2023	<p>Submission of proposed trainer and proposed presentation for NMPED approval.</p> <p>Confirmation of the date of the training.</p> <p>Confirmation of attendees at the training and plan for addressing the provision of training to those staff not in attendance.</p>	<p>August 4, 2023</p> <p>August 11, 2023</p> <p>September 22, 2023</p>
5.	<p>The School shall convene a facilitated IEP (FIEP) meeting for Student.</p> <p>The FIEP meeting shall address:</p> <ol style="list-style-type: none"> 1. Student’s least restrictive environment (educational placement) for the 2022-2023 school year; 2. How progress reports will be provided to Parent; 3. Compensatory education plan required in Step 6; and 	August 4, 2023	<ol style="list-style-type: none"> 1. Invitation to facilitated IEP meetings, 2. IEPs, 3. Prior Written Notices, and 4. Agenda for facilitated IEP team meetings 	August 11, 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>
	<p>4. Including an addendum to the IEP detailing how specialized instruction will be delivered if Student’s medical needs require short-term homebound instruction.</p> <p>The Facilitator shall be independent of the School and shall be selected from the PED list of approved facilitators. The Facilitator shall be paid for by the School.</p> <p>The FIEP meeting shall be held on a date and time that are convenient for the parent. The parent will be provided with a copy of the IEP and PWN at the conclusion of the FIEP meeting.</p> <p>The School shall also ensure that the IEP team includes, but is not limited to parents, special education teacher, general education teacher, and any related services providers.</p>			
6.	<p>The School shall provide Student with the following compensatory education:</p> <ul style="list-style-type: none"> a. 150 hours of one-to-one math instruction; b. 150 hours of one-to-one reading instruction. 	June 16, 2024	Documentation of delivery/provision of compensatory education services, including logs of services recorded in the PED-approved Excel spreadsheet log enclosed with this report.	Monthly from date of compensatory services plan until the compensatory education hours are completed.

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>c. 150 hours of one-to-one written language instruction; and</p> <p>d. 150 hours of one-to-one Language Arts instruction.</p> <p>The schedule for compensatory services should be developed in collaboration with the parent during the FIEP meeting required in Step 5 and can include provisions for services in the summer months. The plan for compensatory education shall be documented in Student’s IEP or through a formal prior written notice. Compensatory education time shall not be counted if Student is unavailable due to an excused absence related to Student’s identified medical conditions.</p> <p>The School shall contract with a private provider or providers to deliver these hours of compensatory education.</p>		<p>Prior Written Notice containing plan for compensatory services.</p>	<p>August 11, 2023</p>
<p>7.</p>	<p>The School shall ensure that all special education students attending the school at the start of the 2023-2024 school year have a recently revised IEP prior to the start of the school year.</p>	<p>August 15, 2023</p>	<p>Copies of all updated IEPs and Prior Written Notices</p>	<p>August 15, 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>
	IEPs of enrolled students that were annually reviewed and updated at IEP meetings occurring between April 1, 2023 and August 15, 2023 will satisfy this requirement.			

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:

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Complaint Investigator

Reviewed by:

/s/ Miguel Lozano
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Reviewed and approved by:


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