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NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Pojoaque Valley School District
Case No. 2324-02
October 6, 2023

This Report requires corrective action. See pages 26-29

On July 27, 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, Advocate, Special Education Director, 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. In addition to the named Student, the complaint alleged systemic violations for students receiving services under both Part B and Part C of IDEA. After obtaining a list of all students that received special education services under the category of autism or were suspected of eligibility under the category of autism, a random sample was selected and information was requested for the students in that sample. The Investigator did not review all students eligible under autism or suspected of autism but if corrective action is recommended, it would apply to all similarly situated students in the above groups. The named Student will be identified as Student. The other students sampled will be identified, when necessary, by number.

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 and implement IEPs for students with autism or suspected of having autism that violate the provisions of Part B of IDEA and its implementing regulations, in violation 34 C.F.R. §§ 300.320-200.328 and 6.31.2.11(b)(1) NMAC; specifically, whether the District:
 - a. Timely completed initial evaluations and reevaluations in all suspected areas of disability;
 - b. Failed to develop and implement individualized IEPs transitioning from Part C to Part B services so that students did not have gaps in services as they transitioned to Part B services;
 - c. Failed to develop and implement individualized IEPs based on the needs of a particular student and the services outlined in the IEPs include all appropriate

services and supports, accommodations and modifications that would provide FAPE;

- d. Have highly qualified staff available to assist students;
 - e. Developed goals that were individualized, measurable and reflected the needs of the students based on the individual student's present levels of academic achievement and functional performance (PLAAFP);
 - f. Timely completed and updated functional behavioral assessments (FBA) and developed and implements and modified, as needed, individualized behavior intervention plans (BIP) or behavioral goals and ensured involvement of all parents in that process;
 - g. Made IEP team decisions based on the consensus of all required IEP team members, including parents;
 - h. Considered concerns of parents in IEP development and educational programming for students;
 - i. Ensured that all required IEP team members attended all IEP team meetings unless properly excused;
 - j. Documented progress on students' IEP goals and educational performance and timely provided that information to parents and/or guardians;
 - k. Timely provided parents with educational records as requested and ensured that parents had needed evaluation and other information for meaningful parental participation in IEP development and implementation; and
Ensured parents had opportunity to participate in the development and/or revision of the IEP and behavioral supports.
2. Whether the District failed to develop and implement an IEP that allowed Student to make educational progress, in violation 34 C.F.R. §§ 300.320-300.320 and 6.31.2.11(B)(1) NMAC; specifically, whether the District:
- a. Addressed academic, behavioral and functional needs when developing and implementing the IEP including the provision of accommodations and modifications;
 - b. Obtained timely evaluation data needed to develop appropriate IEP goals;
 - c. Used accurate and timely present levels of academic achievement and functional performance (PLAAFP) in developing IEP goals;
 - d. Developed and modified, as needed, a functional behavior assessment (FBA) and behavioral intervention plan (BIP) designed to allow Student to make educational progress and be with peers;
 - e. Developed and implemented the IEP in a timely manner;

- f. Developed and implemented appropriate goals in a timely manner in all areas of need;
 - g. Made decisions about services and supports on the IEP without the consensus of the entire team but by one or two individuals;
 - h. Provided documentation of progress on all goals;
 - i. Maintained accurate records on Student's services and progress on all goals;
 - j. Provided appropriately qualified staff to work with Student; and
 - k. Discussed and considered Parent's concerns as the IEP was developed and implemented.
3. Whether the District failed to provide Parent of Student with an opportunity to participate in the IEP process in violation of 34 C.F.R. § 300.322; 34 C.F.R. § 300.501(b) and 6.31.2.11(b)(2) and 6.31.2.13(c) NMAC, specifically whether the District:
- a. Provided Parent with written notice of Student's progress on IEP goals'
 - b. Ensured required team members attended all IEP meetings unless properly excused;
 - c. Timely provided educational records, including evaluation reports, IEPs and supporting documents to ensure Parent had meaningful participation in the development of IEP;
 - d. Considered Parent's concerns regarding behavior, special education and related services;
 - e. Ensured Parent had the opportunity to participate in all IEP and addendum meetings concerning Student;
 - f. Timely informed Parent of behavioral incidents involving Student.
4. Whether the District's actions and/or omissions toward the Student and similarly situated 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

Findings of Fact related to Named Student

1. Student was attending preschool in District during the 2022-2023 school year.
2. Student was referred for an evaluation because of concerns noted in the preschool classroom.

3. Consent was obtained and an evaluation was completed. The eligibility report (ER) dated January 27, 2022 noted Student was eligible under the categories of developmentally delayed and speech language (SL).
4. The evaluation reports did not indicate any concerns about autism.
5. An IEP was developed for Student on February 24, 2022.
6. The evaluation reports noted Student had significant delays in expressive and receptive language, social/emotional and adaptive behavior.
7. A referral was made for a social work evaluation which was completed on March 10, 2022. An IEP meeting was held May 20, 2022 to add extended school year (ESY) services, social work (SW) services and transportation. SW services for 60 minutes a week began at the start of the 2022-2023 school year.
8. A neuropsychological evaluation to determine if Student had autism was completed on October 13, 2022. Student was referred for an occupational therapy (OT) evaluation which was completed November 15, 2022.
9. Student was determined eligible under the category of autism at an eligibility meeting on November 17, 2022.
10. At that meeting, the neuropsychology report was reviewed and it was determined that Student was eligible under the category of autism. The evaluator noted that Student would need "very substantial support in language, social communication, and behavior." He also recommended a developmental preschool with additional related services in speech language (SL), occupational therapy (OT) and SW services.
11. The OT report was reviewed and weekly OT services were added.
12. Student attended a District developmental preschool program all day.
13. The evaluation report listed recommendations for Student, including a referral to Behavior Care Institute (BCI) for additional services and supports for students with autism.
14. The IEP team noted concerns about behavior and reviewed a functional behavior assessment (FBA) that had been completed on October 7, 2021. The IEP included accommodations, positive behavior supports and services and a behavior goal.
15. Student also received ABA support in the preschool classroom.
16. Another IEP meeting was held on December 23, 2022. At that meeting a recommendation was made that Student needed a BCI therapist to work with Student, however, after further discussion, the IEP team agreed to a 1-1 ABA trained educational assistant.
17. There was a discussion and agreement about delaying compensatory ABA services to see how things worked out with Student. The FBA was reviewed.
18. The IEP addendum and other supporting documents from that meeting were provided to Parent on January 10, 2023, after winter break.
19. Social work services were to be provided 60 minutes weekly; however, SW was only provided once a month between December 20, 2022 and March 14, 2023.

20. The social worker, who had worked with Student since September 2022, noted improvement in Student's behavior and social interaction. After winter break, Student began to struggle coming to SW services.
21. Student's annual IEP was due on or before February 24, 2023. The District made attempts to schedule an IEP meeting before the due date with Parent, but the first available date was March 16, 2023.
22. The District attempted to meet the due date but felt it was more important to have Parent and Advocate present for the annual IEP meeting.
23. The annual IEP was finalized at an IEP meeting on March 23, 2023. The development of the IEP was started at a March 16, 2023 IEP meeting but was tabled until the team could meet again to finalize the IEP. An Advocate attended both meetings and Parent's and Advocate's concerns were addressed at these IEP meetings.
24. Parent and an advocate actively participated in all eligibility and IEP meetings for Student. Parent's or Advocate's concerns were considered and some proposals were incorporated into the IEPs for Student.
25. At the March 16, 2023 IEP meeting, it was noted that Student had communication and behavior needs. Student was high energy and attended the District preschool program.
26. Student's IEP provided speech language services, OT, social work, and special education services. Student also had a 1-1 aide.
27. Student had some negative behaviors in the classroom, but most of Student's behaviors were self-harm. Student was in a structured preschool classroom, used a visual schedule and one of the classroom goals was to reduce negative behaviors by Student learning to identify emotions and verbally express those emotions.
28. Student would elope during transitions or when out of the classroom and could not leave at the end of the day unless family was there to escort Student to the bus.
29. The IEP team completed the autism considerations checklist.
30. The IEP team agreed to provide compensatory ABA services and social work services to Student.
31. Parent and an Advocate actively participated in all eligibility and IEP meetings for Student. Parent's or Advocate's concerns were considered and some proposals were incorporated into Student's IEP.
32. Parent and advocate both requested a board-certified behavior analyst (BCBA) work with Student since the District was unable to provide a 1-1 ABA trained aide.
33. The IEP team decided on training by a BCBA but did not believe there was a need for a BCBA to work with Student and the District would continue to recruit an ABA trained 1-1 aide.
34. The IEP team agreed that safety equipment would be provided to staff and appropriate training in the use of the equipment when Student exhibited maladaptive behaviors.

35. The FBA would be reviewed every six months because of Student's changing behaviors and development.
36. Progress reports would be provided monthly to Parent.
37. Parent requested and District agreed that the 1-1 aide would not be alone with Student until the 1-1 aide was properly trained in ABA.
38. Parent would be offered any autism training available for District staff.
39. The District had been looking for a provider for both social work services and ABA services since February, 2022. District was training staff in the use of ABA.
40. All required members attended both IEP meetings in 2023. At the first meeting, one member left because of weather with Parent agreeing verbally to the excusal. Two others left before the end of the meeting without objection by the Parent and the meeting was tabled shortly thereafter. At the second meeting, one member left early without objection from Parent.
41. An addendum meeting was planned but not scheduled to update FBA and discuss compensatory ABA and SW services.
42. Those compensatory services have not been initiated as of the date of this report nor has an addendum meeting been scheduled to review the FBA and determine compensatory services.
43. Parent was informed of all behavioral incidents within one day of incident usually at the end of the day during a discussion with the teacher. Behavioral incidents were handled within the preschool classroom and not referred to the office. Only one incident is listed in the District's records.
44. When Parent requested educational records, the District indicated they were provided on the same day. IEPs and supporting documents were provided in a timely manner. Although requested, neither the District nor the Parent provided documentation of records requested or receipt of requested records.

Findings of Fact Pertaining to Students that have been Determined Eligible for Special Education Services under the Category of Autism.

45. Twenty-four students were eligible for special education services in the District under the category of autism. Six students who received special education and related services under Part B of IDEA were randomly selected. Two students identified as autistic and received special education services under Part C of IDEA were selected for review.
46. Thirteen students were suspected of having a disability under the category of autism. Two students were selected from that group for review.

Student #1

47. Student #1 was a ninth grader who was recently reevaluated on February 16, 2023.
48. Most recent IEP was dated April 24, 2023. Student 1's needs included communication, social work, reading, written language and math.
49. Student was in the general education classroom 80% of the day.

Student #2

50. Student #2 was an eight-year-old third grade student originally diagnosed in 2021.
51. Student#2 was also eligible under the categories of speech-language and specific learning disorder (SLD) in the form of dyslexia.
52. Student 2's needs included math, articulation, language, math, reading, social/emotional, written language and motor skills.
53. Student 2's last IEP was dated January 31, 2021.

Student #3

54. Student #3 was three years old and attending the preschool program.
55. Student #3's needs included communication, motor skills and assistive technology.
56. Student #3's evaluation was completed October 6, 2022. Student #3's most recent IEP was completed on November 15, 2022.

Student #4

57. Student #4 was a seventeen-year-old in eleventh grade on standard graduation track.
58. Student #4's needs included communication and social/emotional. Student #4 also received assistance in reading, math, OT and career readiness.
59. Student #4's most recent IEP was developed on November 7, 2022.

Student #5

60. Student #5 previously attended District, left and returned in 2022.
61. Student #5's most recent IEP was March 16, 2023.
62. Student #5's needs included social/emotional, reading and math.
63. Behavior impacted learning for Student #5.

Summary information

64. Quarterly progress reports for all IEP goals were not provided to parents for all five students. Quarterly progress reports were provided to parents by related service providers. The District had developed a plan to ensure that timely progress notes would be provided in the future. Students' progress was shared with Parents during conferences at the annual IEP meeting or in daily interactions with parents in some cases.

65. All of Students' needs that were related to their disability were documented on the IEP and appropriate goals and services were included on the IEPs.
66. FBAs and BIPs were developed and modified, as needed with the involvement and participation of Parents.
67. Parents actively participated in IEP meetings and concerns were considered and often incorporated in the IEP.
68. All required members attended IEP meetings and no required members were excused without parental consent.
69. When educational records were requested, the District had a procedure for providing records in a timely manner. In these five files, no educational records were requested.
70. Except for one student, all reevaluations or initial evaluations were completed in a timely manner.
71. In one case, there was more than a two-month delay in the evaluation and the District had addressed the situation.
72. Of the Students sampled, none of the students' files that were reviewed transferred from Part C to Part B during the one-year timeframe in this investigation.
73. A review of the records indicated that the required procedures for students that had previously transferred from Part C to Part B were followed and there were no gaps in services.
74. All student files that were reviewed had highly qualified staff that maintained certification from NMPED, including teachers and related service providers who worked with the students in the sample.
75. A review of the IEPs and PWNs for the students sampled indicated that all IEP team members were involved in IEP team decisions. While consensus was not always reached for all IEP team decisions, parents' concerns were considered and incorporated as appropriate.

Students #6 and #7

76. Two students, under the age of three, were included in this sample.
78. These students received services under Part C of IDEA and appropriate IFSPs were developed with parental participation.
79. A review of the files established that all state and IDEA obligations were satisfied with respect to these two students.

Students #8 and #9

80. The two students sampled were suspected of having autism and had been referred for an evaluation but had not yet been determined eligible for special education services under the category of autism.
81. Consent for evaluations was obtained and the timeline for initial referrals was being followed.
82. The review of the files for the two students demonstrated that all requirements of State law and IDEA had been met.

Discussion and Conclusions of Law

Initially, it is important to note that IEP meetings and evaluations that occurred prior to July 27, 2022 are outside the one-year timeframe and cannot be considered for this investigation. The information is included in this report for background information and clarity in the analysis.

Issue No. 1

Whether the District failed to develop and implement IEPs for students with autism or suspected of having autism that violate the provisions of Part B of IDEA and its implementing regulations, in violation 34 C.F.R. § § 300.320-200.328 and 6.31.2.11(b)(1) NMAC; specifically, whether the District;

- a. **Timely completed initial evaluations and reevaluations in all suspected areas of disability;**
- b. **Failed to develop and implement individualized IEPs transitioning from Part C to Part B services so that students did not have gaps in services as they transitioned to Part B services;**
- c. **Failed to develop and implement individualized IEPs based on the needs of a particular student and the services outlined in the IEPs include all appropriate services and supports, accommodations and modifications that would provide FAPE:**
- d. **Have highly qualified staff available to assist students;**
- e. **Developed goals that were individualized, measurable and reflected the needs of the students based on the individual student's present levels of academic achievement and functional performance (PLAAFP);**
- f. **Timely completed and updated functional behavioral assessments (FBA) and developed and implements and modified, as needed, individualized behavior intervention plans (BIP) or behavioral goals and ensured involvement of all parents in that process;**
- g. **Made IEP team decisions based on the consensus of all required IEP team members, including parents;**

- h. Considered concerns of parents in IEP development and educational programming for students;**
- i. Ensured that all required IEP team members attended all IEP team meetings unless properly excused;**
- j. Documented progress on students' IEP goals and educational performance and timely provided that information to parents and/or guardians;**
- k. Timely provided parents with educational records as requested and ensured that parents had needed evaluation and other information for meaningful parental participation in IEP development and implementation; and**
- l. Ensured parents had opportunity to participate in the development and/or revision of the IEP and behavioral supports.**

IDEA and New Mexico state law have procedural requirements for students who are eligible for special education services under the category of autism. See 6.31.2.11- 13 NMAC; 34 C.F.R. §§ 300.320-300.328. These requirements include all of the requirements for development and implementation of the IEP and the Autism Checklist, Consideration of Best Practices/Strategies for A Student with Autism.

Special education is “specially designed instruction provided at no cost to the parents, that is intended to meet the unique needs of a child with a disability.” 34 C.F.R. § 300.39(a)(1). This specialized designed instruction is adapting the content, methodology or delivery of instruction to address the unique needs of an individual child. 34 C.F.R. § 300.39(b)(3). These unique needs are more than academic needs but can include social, health and emotional needs. *County of San Diego v. California Special Education Hearing Office*, 95 F3d 1458 (9th Cir., 1996). Behavioral needs are also part of the IEP process and can be addressed in a behavioral intervention plan (BIP). A BIP is usually a component of the IEP to address that interfere with the student’s learning and are inconsistent with school expectations. *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, 81 IDELR 138 (OSERS 2022).

IEPs are to be developed during an IEP meeting. The IEP team must consider the student’s strengths, any concerns of the parents, results of evaluations, and academic, developmental and functional needs of the student. 34 C.F.R. § 300.324(a)(1). Parents as required members of the IEP team must have adequate information to make informed decisions. 34 C.F.R. § 300.321(a)(1). Every IEP for a student must contain “[a] statement of the child's present levels of academic achievement and functional performance, including --How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children).” 34 C.F.R. § 300.320(a)(1). This statement of PLAAFP assists in determining the needs of an individual student to develop annual goals to allow the student to receive FAPE and make progress in the general education curriculum. *Bakersfield City School District*, 51 IDELR 142 (SEA CA 2008). The PLAAFP must be comprehensive and provide baseline data that reflects

all the child's needs, both academic and nonacademic. This also should include relevant background information about needs, strengths, interests and learning styles. 34 C.F.R. § 300.324(a). The PLAAFP must be individualized to reflect the unique needs and abilities of a particular student. *Letter to New*, 211 IDELR 464 (OSEP 1987).

A child's annual IEP must include measurable annual goals, both academic and functional that meet the child's needs that result from the child's disability and allow the child to participate in and make progress in the general education curriculum. The IEP goals must address all the child's needs that result from the child's disability. 34 C.F.R. § 300.320 (a)(2). Annual goals should reflect what is reasonably expected to be accomplished during the annual IEP period. *Letter to Butler*, 213 IDELR 118 (OSERS 1988). The annual goals should be specific to be able to determine progress made and the specific skills needed to achieve progress on goals. 64 Fed. Reg. 12,471 (1999). When Student is not making progress on their goals, the IEP team needs to meet to modify the goals or determine the need for additional supports and services. 34 C.F.R. § 300.324 (b)(ii)(A). An IEP must be implemented with all required components. 34 C.F.R. §300.324 (b)(ii)(a). However, only material failures of implementation will result in a denial of FAPE. See *Van Duyn v. Baker School District*. 5J, 481 F3d 770 (9th Cir. 2007).

a. Timely completed initial evaluations and reevaluations in all suspected areas of disability.

Nine students' files were reviewed during this investigation. Students in the sample ranged in age from 3 to 17 years of age. Some had been diagnosed with autism in preschool, some later. Therefore, the initial evaluations for those not diagnosed in the last year were outside the one-year timeframe for review. With respect to reevaluations, all but one were reevaluated in a timely manner. Although initial evaluations must be completed within 60 days, reevaluations must be completed in a reasonable time. For Student 4, the reevaluation was not completed within two months. Although the District could not explain the reason for the delay, the District had developed a plan to remedy that situation in the future and the student has been reevaluated. Student had been on IEP and continued to receive appropriate special education services that provided FAPE during the two month delay in the reevaluation. The reevaluations that were completed covered all suspected areas of disability.

As to Issue #1a, the District is cited and Corrective Action is required.

- b. Failed to develop and implement individualized IEPs transitioning from Part C to Part B services so that students did not have gaps in services as they transitioned to Part B services.**

There were no students in the sample that transitioned from Part C to Part B during the one- year timeframe for a complaint investigation. Reviewing the remaining files, there was no evidence that the District failed to follow the required procedures for students transitioning from Part C to Part B. There were no gaps in services.

As to Issue #1b, the District is not cited.

- c. Failed to develop and implement individualized IEPs based on the needs of a particular student and the services outlined in the IEPs include all appropriate services and supports, accommodations and modifications that would provide FAPE:**

After reviewing the evaluations, eligibility reports and IEP documents including any notes and PWNs, the IEP team considered all the students' needs when developing the IEPs. They were individualized with appropriate goals and services. Although all students were eligible under the category of autism, many had additional needs in academic areas, assistive technology and/or behavior. The students' IEPs were reasonably calculated to allow the students to make educational progress based on their individual circumstances.

As to Issue #1c, the District is not cited.

- d. Have highly qualified staff available to assist students.**

All the students in the sample were assisted by staff that had the required certification from the NMPED. Staff that worked with these students included general education teachers, special education teachers, related services providers and educational aides. At times, the students were assisted by substitute teachers and/or educational aides but those staff met the requirements of NMPED.

As to Issue #1d, the District is not cited.

- e. Developed goals that were individualized, measurable and reflected the needs of the students based on the individual student's present levels of academic achievement and functional performance (PLAAFP).**

The goals in the students' IEPs were developed based on the PLAAFP, evaluation reports and other information discussed during the individual IEP meetings. The goals measurable in that each goal had expectations for successful mastery and were focused on each student's individual needs. In some instances, there were discussions that goals needed to be modified or added

because of what the teachers or parents were observing for a particular student. Often, the goals were changed because of that input.

As to Issue #1e, the District is not cited.

- f. Timely completed and updated functional behavioral assessments (FBA) and developed and implements and modified, as needed, individualized behavior intervention plans (BIP) or behavioral goals and ensured involvement of all parents in that process.**

A review of the students sampled indicated that not all students had behavioral concerns requiring an FBA or BIP. Other students had an FBA but may not have a BIP. In other situations, students' behaviors were addressed as behavioral goals on the IEP and/or positive behavior supports were included in the IEP. When a student had a BIP or FBA, they were updated or modified as students' needs changed.

As to Issue #1f, the District is not cited.

- g. Made IEP team decisions based on the consensus of all required IEP team members, including parents.**

During a review of the IEP documents for all students in the sample, all required team members were in attendance. The PWNs noted proposals from both the District personnel and parents and the discussion and decisions made. In some instances, the concern was tabled until a later date or modifications were made to the IEP based on the input from staff and parents. Sometimes parents did not agree with a particular decision but there was no evidence that parents were not active participants nor that their issues were disregarded.

As to Issue #1g, the District is not cited.

- h. Considered concerns of parents in IEP development and educational programming for students.**

See Issue 1g. The IEPs and PWNs that were reviewed demonstrated that parents were active participants in the IEP process. For some students, the parents noted concerns that were incorporated into goals or services. In some instances, parents wanted certain goals or services included in the IEP but those issues were tabled for a later time or the entire IEP team agreed to an alternative plan.

As to Issue #1h, the District is not cited.

- i. Ensured that all required IEP team members attended all IEP team meetings unless properly excused.**

In reviewing the file of named Student, there was documentation on the PWN that certain team members left the meeting early without objection from Parent, but there was no written excusal. That will be addressed later in this section. With the remaining students in the sample, the IEPs and supporting documents including the PWNs indicated that all required IEP team members were present at the meeting and there was no indication in those files that team members left early.

As to Issue #1i, the District is not cited.

- j. Documented progress on students' IEP goals and educational performance and timely a provided that information to parents and/or guardians.**

Quarterly progress reports were to be provided as stated in the students' IEPs. However, timely progress reports were not provided to parents as specified in the IEPs. Related service progress notes were provided in a timely manner. The District has developed a plan to remedy this in the future. Progress was reviewed and discussed at IEP meetings.

As to Issue #1j, the District is cited and Corrective Action is required.

- k. Timely provided parents with educational records as requested and ensured that parents had needed evaluation and other information for meaningful parental participation in IEP development and implementation.**

There was no evidence that any of the parents of the sampled students requested and were denied access to educational records. The District indicated that when records are requested, they are provided in a timely manner.

As to Issue #1k, the District is not cited.

- l. Ensured parents had opportunity to participate in the development and/or revision of the IEP and behavioral supports.**

A review of the IEPs and PWNs and other supporting documents did not find any evidence that parents were not active participants in the IEP development/revision of their student's IEP. Parents attended all IEP meetings. The PWNs indicated that parents' concerns were considered and when appropriate, incorporated in the IEPs.

As to Issue #1l, the District is not cited.

As to Issue #1, the District is cited on Issue 1a and 1j.

Issue No. 2

Whether the District failed to develop and implement an IEP that allowed Student to make educational progress, in violation 34 C.F.R. §§ 300.320-300.320 and 6.31.2.11(B)(1) NMAC; specifically, whether the District:

- a. Addressed academic, behavioral and functional needs when developing and implementing the IEP including the provision of accommodations and modifications;**
- b. Obtained timely evaluation data needed to develop appropriate IEP goals;**
- c. Used accurate and timely present levels of academic achievement and functional performance (PLAAFP) in developing IEP goals;**
- d. Developed and modified, as needed, a functional behavior assessment (FBA) and behavioral intervention plan (BIP) designed to allow Student to make educational progress and be with peers;**
- e. Developed and implemented the IEP in a timely manner;**
- f. Developed and implemented appropriate goals in a timely manner in all areas of need;**
- g. Made decisions about services and supports on the IEP without the consensus of the entire team but by one or two individuals;**
- h. Provided documentation of progress on all goals;**
- i. Maintained accurate records on Student's services and progress on all goals;**
- j. Provided appropriately qualified staff to work with Student; and**
- k. Discussed and considered Parent's concerns as the IEP was developed and implemented.**

IDEA requires once a Student is determined eligible for special education services, the entire IEP team which includes parents as active participants, must meet and develop an IEP that addresses all student's needs and is not limited to academic or behavioral goals. 34 C.F.R. § 300.323(c). Parents must have access to their student's educational records including evaluation data and progress reports to ensure they have the requisite information to be an informed member of the IEP team. 34 C.F.R. § 300.501. In order to develop an IEP that provides a FAPE, the District must have timely evaluation data to determine a student's PLAAFP and from there determine goals and services for a particular student. 34 C.F.R. §§ 300.301, 300.303. Some students have behavioral needs which impede a student's learning. In those situations, the IEP team must consider positive behavioral services and supports which can include goals, an FBA or BIP to address the student's behavioral needs. 34 C.F.R. § 300.324(a)(2)(i). Modifications may need to be made to those documents and services as an individual student's needs change. 34 C.F.R. § 300.324(a)(4). The IEP must be individualized and include measurable goals that will allow the Student to make educational progress. 34 C.F.R. § 300.320. Once the IEP is developed, it must

be implemented with fidelity by staff that have the appropriate training, experience and credentials to assist students. 34 C.F.R. 300.323 (c). See also Issue 1.

a. Addressed academic, behavioral and functional needs when developing and implementing the IEP including the provision of accommodations and modifications.

Named Student was initially eligible under the category of developmentally delayed. There were language delays but there was nothing in the initial eligibility report to indicate that there were other suspected areas of disability, including autism. During the 2022-2023 school year, Student attended 3y and 4y preschool all day and was referred for an evaluation. As Student was observed in the classroom, it was recommended that Student have a social work evaluation, neuropsychological evaluation and occupational therapy evaluation. After the completion of these evaluations in November, 2022, the eligibility team met again on November 17, 2022 and determined Student was eligible under the category of autism and additional services were recommended and included on the IEP. An IEP meeting was held on December 23, 2022 and then the annual IEP meeting was held on March 16, 2023 and finalized on March 23, 2023. There was nothing in this record to suggest that Student's academic, behavioral and functional needs were not considered in the development of the March 23, 2022 IEP. Behavioral concerns were noted and the FBA that had been completed on October 7, 2021 was reviewed and supports, services and a behavioral goal were included on the IEP.

At the two IEP meetings in March there were discussions about Student's behavior and other needs; the Parent and Advocate proposed a BCBA to work with Student. The IEP team deferred on that suggestion but did agree to have training from a BCBA and would continue to recruit an ABA trained 1-1 aide. Student's behaviors could be dangerous so the IEP team agreed to safety equipment with training to protect Student, other students and staff when Student exhibited maladaptive behaviors. Student's behaviors were addressed in the preschool classroom and they were not referred to the office for disciplinary reasons. Parent was informed daily about Student's day including behavior. The IEP team agreed to review the FBA every six months as Student's needs changed. Not all of Parent's and Advocate's proposals were included in the IEP but there was no evidence that Student's academic, behavioral, and functional needs were not considered when the IEPs were developed and implemented.

As to Issue #2a, the District is not cited.

b. Obtained timely evaluation data needed to develop appropriate IEP goals.

Student was initially determined eligible under the category of developmental delayed. The eligibility report was completed on January 27, 2022. Additional evaluations were recommended

including a social work evaluation, occupational therapy evaluation and neuropsychological evaluation. The social work evaluation was completed on March 23, 2022 and considered and included as a service at the May 20, 2022 IEP. The other two evaluations were completed by November 15, 2022 and an eligibility meeting was convened on November 17, 2022 when Student was determined eligible under the category of autism. Although Student was now eligible under the category of autism, instead of developmental disability, the supports and services provided in the IEP were determined appropriate for Student's needs with the addition of OT services. The annual IEP was started on March 16, 2023 and completed on March 23, 2023. The information from all the evaluations as well as information from teachers and Parent were considered in the development of goals. There was no evidence that the District had insufficient evaluation data to develop an appropriate IEP. Moreover, at the time of the evaluation in January, 2022, there was no reason to suspect autism and when the District was put on notice of that concern, an evaluation was promptly conducted.

As to Issue #2b, the District is not cited.

c. Used accurate and timely present levels of academic achievement and functional performance (PLAAFP) in developing IEP goals.

At the March 16, 2023 and March 23, 2023 IEP meetings, evaluation information as well as input from staff and Parent were available to the IEP team to include in the PLAAFP. There was no indication on this record that the information was inaccurate and as additional information became available, it was considered and included in the IEP. As noted in Issue 2b, the District did not suspect autism at the time of the January 27, 2022 eligibility meeting. When concerns were raised about the need for SW and OT services, evaluations were completed and incorporated in the IEPs, as warranted. The information available to the IEP team at the time of the development of the IEP and addendums was accurate and timely. There was no violation. See Issue 2b.

As to Issue #2c, the District is not cited.

d. Developed and modified, as needed, a functional behavior assessment (FBA) and behavioral intervention plan (BIP) designed to allow Student to make educational progress and be with peers.

An FBA was completed in October 2021 to obtain more information about Student's maladaptive behaviors. At the February 24, 2022 IEP and March 23, 2023 IEP meetings, Student's IEP included positive behavior supports and services and a behavior goal. The IEP team did not think Student needed a BIP at the time. The PWN from the March 23, 2023 IEP noted that the FBA would be updated every six months as Student's needs changed. Student was to receive ABA services but the District was training staff on ABA services because they did not have someone ABA qualified

to work with Student or to provide ABA services. Student continued to receive appropriate services and made progress on goals without an ABA trained 1-1 aide.

As to Issue #2d, the District is not cited

e. Developed and implemented the IEP in a timely manner.

The neuropsychological evaluation and OT evaluations were completed by November 15, 2022 and eligibility was determined on November 17, 2022. At that time, the eligibility team determined that appropriate services were included on the IEP and the annual IEP was due on February 24, 2023. The District attempted to schedule an IEP in a timely manner before the expiration of the 2022 IEP but was unable to schedule a convenient time for Parent until March 16, 2023. The IEP meeting was convened but was tabled before the IEP was finalized on March 23, 2023. It should be noted that the District made attempts to complete the annual IEP in a timely manner but was unable to schedule a meeting and waited to ensure Parent's participation. The District was out of compliance with the timely completion of the annual IEP.

As to Issue #2e, the District is cited, Corrective action is required.

f. Developed and implemented appropriate goals in a timely manner in all areas of need.

The IEP at issue in this report was the IEP developed at two meetings on March 16 and March 23, 2023. The Parent and Advocate participated in the meetings. The goals on the IEP were developed from the PLAAFP which reflected information obtained from the evaluations and input from Parent, Advocate and teachers. There is no evidence that the goals were not developed in a timely manner or did not reflect all areas of need. It should be noted that the IEP team agreed that the FBA should be reviewed every six months because of Student's changing behavioral needs. Although Parent and Advocate proposed additional services and goals that were not included in the IEP, that does not suggest that the goals developed were not appropriate, measurable and reasonable calculated to allow Student to make educational progress. For example, the focus of the behavioral goals and supports which included expectations for mastery of the goal was to reduce instances of physical aggression and elopement. Student had a communication goal and received speech-language services to address receptive and expressive language deficits.

As to Issue #2f, the District is not cited.

g. Made decisions about services and supports on the IEP without the consensus of the entire team but by one or two individuals.

A review of the records submitted in this complaint by both the Parent, Advocate and District demonstrate that Parent and her Advocate were active participants in the IEP for this Student. The PWN noted proposals by the Parent and/or Advocate. Those proposals were not always incorporated in the IEP but there was no evidence that IEP decisions were made by only one or two District individuals.

As to Issue 2g, the District is not cited.

h. Provided documentation of progress on all goals.

The March 23, 2023 IEP required monthly progress reports on all IEP goals. The District did not provide timely documentation of progress on goals as required by the IEP. Progress was discussed at IEP meetings. The District has developed a plan to remedy this violation.

As to Issue #2h, the District is cited and Corrective Action is required.

i. Maintained accurate records on Student's services and progress on all goals.

The District maintained accurate records on Student's services and progress and provided daily reports to Parent and discussed progress at IEP meetings. Formal progress reports from the teacher were not provided but related service providers progress reports were timely provided. Although not all progress reports were timely provided, the District maintained records that established Student was making progress on all goals. Parent was timely informed about Student's progress based on data collected by staff.

As to Issue #2i, the District is not cited.

j. Provided appropriately qualified staff to work with Student.

The IEP team agreed to provide compensatory ABA services and social work services to Student and included this on the IEP. The District has not provided compensatory ABA services nor did they have an ABA trained 1-1 aide. The other staff that worked with Student did have the appropriate credentials as determined by the NMPED. For these reasons, the District failed to provide qualified staff to work with Student.

As to Issue #2j, the District is cited Corrective Action is required.

k. Discussed and considered Parent's concerns as the IEP was developed and implemented.

The March 23, 2023 annual IEP and supporting documents including the PWN indicated that Parent and her Advocate actively participated in the IEP as it was developed and implemented. Other addendum and eligibility meetings during the 2022-2023 school year demonstrated ongoing participation from Parent and Advocate. During the annual IEP team meetings, Parent and Advocate proposed the services of a BCBA for Student as well as other concerns. Although those concerns were not incorporated in the IEP, they were discussed and considered by the entire IEP team. IEP team decisions are made by a consensus of the entire IEP team. Parents are to be active participants in the process and their concerns are to be considered but are not automatically adopted into the IEP. That process was followed here.

As to Issue #2k, the District is not cited.

As to Issue #2, the District is cited in Issue #2e, 2h, and 2j.

Issue No. 3

Whether the District failed to provide Parent of Student with an opportunity to participate in the IEP process in violation of 34 C.F.R. § 300.322; 34 C.F.R. § 300.501(b) and 6.31.2.11(b)(2) and 6.31.2.13(c) NMAC, specifically whether the District:

- a. Provided Parent with written notice of Student's progress on IEP goals'**
- b. Ensured required team members attended all IEP meetings unless properly excused;**
- c. Timely provided educational records, including evaluation reports, IEPs and supporting documents to ensure Parent had meaningful participation in the development of IEP;**
- d. Considered Parent's concerns regarding behavior, special education and related services;**
- e. Ensured Parent had the opportunity to participate in all IEP and addendum meetings concerning Student; and**
- f. Timely informed Parent of behavioral incidents involving Student.**

Parents are mandatory members of the IEP team. 34 C.F.R. § 300.321(a)(1). Districts must provide parents with meaningful parental participation in any decisions involving the identification, evaluation and educational placement of the student and provision of FAPE. 34 C.F.R. § 300.501(b). The District must send the parents periodic reports of the student's progress toward his IEP goals following the schedule set forth in the student's IEP. 34 C.F.R. § 300.320(a)(3)(ii). Meaningful parental participation includes consideration of a parent's concerns and, if appropriate, incorporating those concerns in documents. *Deal v. Hamilton County Board*

of Education, 42 IDELR 109 (6th Cir. 2004), *cert denied*, 546 U.S. 936 (2005), *on remand* (E.D. TN 2006), *aff'd* 49 IDELR 123 (6th Cir 2008). The 11th Circuit Court of Appeals in *R.L v. Miami-Dade County School Board* held that parental participation required the District to come to meetings with an open mind and be receptive and responsive to parent's concerns. *R.L. v. Miami-Dade County School Board*, 63 IDELR 182 (11th Cir. 2014). Although parents are equal members of the IEP team, decisions are not made by voting but by consensus. 34 C.F.R. § 300.503(a). When consensus cannot be obtained, the district must provide the Parents with a prior written notice (PWN) outlining proposals and refusals. *Letter to Richards*, 55 IDELR 107 (OSEP 2010). Staff that work with students must have the necessary skills and knowledge and appropriate certification. 20 U.S.C. 6611 (c)(4)(B)(i).

a. Provided Parent with written notice of Student's progress on IEP goals.

The March 23, 2022 IEP required monthly progress reports on all of Student's IEP goals. Progress notes were provided by related service providers. This was not provided to Parent. Progress was shared at IEP meetings and daily reports from the teacher but regular progress reports were not provided. See Issue 2h.

As to Issue #3a, the District is cited and Corrective Action is required.

b. Ensured required team members attended all IEP meetings unless properly excused.

All required members attended the IEP meetings but at the March 16, 2023 and March 23, 2022 IEP meetings, required members left without written excusal. At the first meeting, one member left because of the weather with verbal consent of the Parent. Another member stated she needed to leave and Parent did not object. Another member needed to leave and the meeting was tabled shortly thereafter. At the second meeting on March 23, 2023, one required member indicated that she needed to leave and left without an objection from parent. There were no written excusals from Parent and therefore members were not properly excused.

As to Issue #3b, the District is cited Corrective Action is required.

c. Timely provided educational records, including evaluation reports, IEPs and supporting documents to ensure Parent had meaningful participation in the development of IEP.

Parent and Advocate asserted that the District failed to provide educational records including IEPs and PWNs in a timely manner. The District's response was that all required documents were provided in a timely manner. The IEP from the December 23, 2022 IEP addendum meeting was provided to Parent on January 10, 2023, after the end of the winter break. Neither the

District nor Parent provided documentation of requests for educational records or that the documents were not provided. District reported that when Parent requested educational records, they were provided to Parent the same day requested. In the submissions provided by the Parent with this Complaint, Parent was provided with IEPs, PWNs, evaluation reports and other educational records. Parent has the right to have access to all of Student's educational records.

As to Issue #3c, the District is not cited.

d. Considered Parent's concerns regarding behavior, special education and related services.

There was evidence that the IEP team considered Parent's and Advocate's concerns at the March 16, 2023 IEP meeting the IEP meeting on March 23, 2023 when the IEP was finalized. Student would elope especially during transitions and was physically aggressive in the classroom. Parent and advocate wanted a BCBA to work with Student; however, the District noted a decrease in negative behaviors in the structured preschool classroom and did not see a need for a BCBA. See Issue #2k.

As to Issue #3d, the District is not cited.

e. Ensured Parent had the opportunity to participate in all IEP and addendum meetings concerning Student.

Within the one-year timeframe for the investigation of state complaints, there were three IEP meetings and an eligibility meeting. An IEP meeting was held on December 23, 2022, March 16, 2023 and March 23, 2023. An eligibility meeting was held on November 17, 2022. All other IEP meetings were outside the one year for review in this investigation report. Parent attended and actively participated in all meetings.

As to Issue #3e, the District is not cited.

f. Timely informed Parent of behavioral incidents involving Student.

The classroom teacher would verbally update Parent daily about Student's day including behavior. There was only one District disciplinary incident reported and Parent was informed of the incident. These facts support a finding that Parent was timely informed about behavioral incidents involving student.

As to Issue #3f, the District is not cited.

As to Issue #3a and 3b, the District is cited and corrective action is required.

Issue No. 4

Whether the District's actions and/or omissions toward the Student and similarly situated 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.

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. A District is 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).

There were procedural violations on this record including failure to provide timely progress notes, timely IEP meetings and timely completion of evaluations. There was, however, no evidence that these procedural violations rose to the level of a denial of FAPE. Parent was provided meaningful participation throughout the IEP process. Parent attended and actively participated in all IEP and eligibility meetings. Parent's proposals were considered and discussed but not all were included in the IEP, such as the need for a BCBA. Student was making progress on goals and received educational benefit from the IEP. Student was in a preschool classroom all day and did not lose educational opportunities because of the procedural violations.

There was no evidence on this record that there were substantive violations of FAPE on this record. Student made progress on IEP goals. Student's negative behaviors had decreased. Student's speech-language and developmental skills showed marked improvement in reports from the services providers and teachers.

As to Issue #4, the District is not cited.

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. § § 300.320-200.328 and 6.31.2.11(b)(1) NMAC; specifically, whether the District	<p>The District failed to timely complete initial evaluations and reevaluations in all suspected areas of disability.</p> <p>The District failed to document progress on students' IEP goals and educational performance and timely provided that information to parents and/or guardians.</p>
34 C.F.R. § § 300.320-300.320 and 6.31.2.11(B)(1) NMAC	<p>The District failed to develop and implement the IEP in a timely manner.</p> <p>The District failed to provide documentation of progress on all goals.</p> <p>The District failed to provide appropriately qualified staff to work with Student.</p>
34 C.F.R. § 300.322; 34 C.F.R. § 300.501(b) and 6.31.2.11(b)(2) and 6.31.2.13(c) NMAC	<p>The District failed to provide Parent with written notice of Student's progress on IEP goals.</p> <p>The District failed to ensure required team members attended all IEP meetings unless properly excused.</p>

Required Actions and Deadlines

By October 13, 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 January 31, 2024 and reported to the SED no later than February 8, 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 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).	October 13, 2023, 2023	Written Assurance Letter/Email	October 13, 2023
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	October 20, 2023	Notes from meeting prepared by District	October 27, 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>
	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 Special Education Director shall be responsible for arranging this meeting with SED.			
3.	The District Special Education Director will meet with Student's special education 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.	October 27, 2023	Notes from meeting prepared by District	November 3, 2023
4.	<p>The District will hold a Facilitated IEP meeting as soon as possible. The Facilitated IEP meeting shall address:</p> <ul style="list-style-type: none"> • A plan to provide timely progress reports to Parents on all goals; • IEP to address Student's needs in the area of ABA services and behavior; and • a plan to provide Compensatory Education Services in the area of ABA and Social work. <p>The Facilitator shall be independent of the District and shall be selected from the PED list of approved</p>	November 17, 2023	<p>1. Invitation to facilitated IEP meetings,</p> <p>2. IEPs,</p> <p>3. Prior Written Notices, and</p> <p>4. Agenda for facilitated IEP team meetings</p>	November 27, 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>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 parent. The parent will be provided with a copy of the IEP and PWN at the conclusion of the FIEP meeting.</p> <p>The District 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>			
5.	<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"> • On students with autism and how to meet needs including behavior needs; • Developing and providing progress notes that address all IEP goals; • Plan regarding plan for progress reporting and timely evaluations. <p>The training shall be provided by a person with expertise in special education who was not involved in</p>	January 31, 2024	<p>Submission of proposed trainer and trainer’s resume 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>December 1, 2023</p> <p>December 8, 2023</p> <p>February 9, 2024</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>
	responding to this complaint and who is approved by NMPED.			
6.	The District shall provide a written plan to address concerns with provision of progress notes and timely evaluations to PED SED. The training provided in Step 5 shall include information on this plan in order to ensure that all relevant staff are aware of the plan requirements.	December 1, 2023	Written Plan	December 8, 2023

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/ Michele Bennett

Michele K. Bennett

Complaint Investigator

Reviewed by:

/s/ Miguel Lozano

Miguel Lozano, Esq.

Chief Counsel, Special Education Division

Reviewed and approved by:

DocuSigned by:
Margaret Cage

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Margaret Cage, Ed.D.

Director, Office of Special Education