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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
OFFICE OF SPECIAL EDUCATION
Complaint Resolution
Report Las Cruces Public
Schools Case No. C2324-34
March 26, 2024**

This Report does require corrective action. See pages 10-14.

On January 26, 2024, a complaint was filed with the New Mexico Public Education Department's (PED) Office of Special Education (OSE) 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 OSE 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 Life Skills 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 District met its Child Find Obligation when it failed to evaluate Student for nine months after enrollment when it had reason to suspect that Student was child with a disability in violation of 34 C.F.R. § 300.111 (a)(1)(i) and 6.31.2.10(A) NMAC; and
2. Whether the District denied the Student a free appropriate public education (FAPE) when it failed to provide special education services to an eligible Student in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC.

General Findings of Fact

1. Student's family moved into District from out of state; Parent contacted the School in mid-October, 2022 to obtain services for Student.
2. Parent stated to District that Student had been diagnosed with autism spectrum disorder at age four and Student's doctor reported Student needed autism services in a specialized classroom.
3. Since there was some confusion about whether Student was a transfer Student with an IEP, District followed up about whether Student had an IEP and previous education prior to coming to District.
4. Although the District disputes this, Parent stated a private evaluation at Parent's expense was needed before Student could receive special education services.
5. A private autism evaluation was completed by a licensed psychologist on November 7, 2022 and provided to the District on November 10, 2022, Student's first day of school.
6. The private evaluation confirmed the diagnosis of autism along with other diagnoses. District did not accept outside evaluation as basis for eligibility, nor did District seek consent for

additional evaluations.

7. Student was eight years old and in the second grade when Student started at District school on November 10, 2022.
8. Student had never attended public or private school prior to November, 2022.
9. On Student's first day of school Student was initially placed in the general education classroom. Within minutes of Student's attendance, Student became disruptive. Student would not stay in assigned seat, grabbed items off the teacher's desks and dropped those items.
10. Student was transferred the same day to a Life Skills classroom where Student remained.
11. On December 7, 2022, the District gave Parent a prior written notice (PWN) which outlined the plan to place Student in the Life Skills class with academic supports for 60 days, to have the Student Assistance Team ("SAT") continue to collect data, and to conduct a multidisciplinary evaluation.
12. Student remained in the Life Skills class but no evaluation was completed.
13. From November 10, 2022 until the IEP was completed on October 26, 2023, Student received instruction in the Life Skills room for the full day but did not have an IEP.
14. Despite Student's placement in a self-contained special education classroom, District did not seek consent for an evaluation or develop and implement an IEP during the 2022-2023 school year.
15. The Special Education Teacher continued to reach out to multiple District personnel (i.e., social worker and autism specialist) for assistance in working with Student and the status of the Student's IEP. Despite repeated requests, limited assistance was provided to the Teacher.
16. With only the knowledge that Student had been diagnosed with autism, the Special Education Teacher used various strategies including "trial and error" to provide instruction.
17. In January 2023, the Special Education Teacher reported to staff that Student screamed and cried "all day long," and that an adult needed to be with Student at all times because of Student's aggressive and self-harming behaviors.
18. This information was used to support a behavioral intervention referral requested by Teacher that was not completed.
19. There were numerous discussions among District staff regarding services and a comprehensive evaluation starting in January 2023 but nothing was done that school year. Staff turnover also impacted on the scheduling of the evaluation. Even with monthly follow ups by Parent and the Special Education Teacher, consent for evaluation was requested on August 18, 2023, more than nine months after Student's arrival at school.
20. On August 19, 2023, Parent signed the consent for the evaluation.
21. On October 9, 2023, an Eligibility Determination Team (EDT) meeting was held and Student was determined eligible for special education services under the category of Autism and Intellectual Disability.
22. On October 26, 2023, Student's IEP was developed which provided special education instruction (900 minutes per week), Occupational Therapy (OT) (20 minutes per week), Social Work Services (SW) (30 minutes per week), Speech Services (SL) (120 minutes per month), and Adaptive Physical Education (PE) (25 minutes per week).
23. The IEP provided for ABA collaborative services at the school from an outside vendor. The IEP

shortened Student's school day because of aggressive behaviors. Student was in school from 8-10:30 every day.

24. The IEP team sought consent for a Functional Behavior Assessment (FBA). An FBA was eventually completed and BIP was developed on February 29, 2024.
25. On January 18, 2024, Student's IEP team met again and increased Student's day from 8 to 11:30 and planned to meet again in six weeks to review the modified day again, if necessary. Student was also eligible for ESY services. There was no documentation regarding the need for a shortened day beyond Student's aggressive behaviors or the plan for increasing services to full day.
26. Student's 3 ½ hours of school consisted of activities including personal hygiene, letter tracing, art, music, library, recess and adaptive PE along with limited time for ELA and math. The shortened day provided for limited time to work on academic subjects.
27. Student had an ABA therapist working with Student two hour each day. Student always had an adult present.
28. Student has limited work in academic subjects.
29. Student still has daily dysregulation and can become aggressive. Student's dysregulation is generally shorter in duration and does not require Student to leave school early as often as when Student attended all day.
30. The PWN from the January 18, 2024 IEP meeting stated the following:

The District proposes [Student] be placed on a modified day of 4.00 hrs/min a day from 7:30AM-11:30AM for a total instructional week of 1200 minutes in core subjects (math, writing, reading) including therapy services beginning 01/19/2023 with a scaffolded increase of time as she demonstrates the ability to attend and sustain the school setting with collaborative support between [Student's] school team and outside community service providing agency's collaboration. The IEP team continues to witness and address physical aggression towards self, staff members and other students that include physically hitting. Due to [Student's] inability to regulate and attend to instruction or teacher direction with attempted interventions from teaching staff and administration (See data collection sheets). At the present time, collected data indicates her stamina and ability for consistent regulation appears to diminish around 11:30 AM despite continued efforts to keep her engaged and participating in school activities. As a result, the need for a modified day is necessary in order for {Student] to build her ability to regulate behavior for the safety of all. A review of the modified schedule in 6 weeks to determine if increased time of increments 30minutes to 1 hour is appropriate based on increase in regulation and decrease in aggressive behaviors. The IEP team and outside community agencies will convene in four weeks to discuss data collected by the school team and outside community service providing agency and create proposals to present for the next IEP meeting.

31. The Special Education Teacher had an effective relationship with Parent and remained in regular contact to discuss behavior strategies and other issues that arose.

32. Student attended private ABA services outside the school in the afternoons.
33. The Special Education Teacher indicated Student has made some progress since arrival in the Life Skills classroom, including speaking, progress in activities, and understanding the daily schedule.
34. Over the past two years, Parent has noticed declines in Student's abilities, including behavior, self-harm, and ideation. Parent also has observed limited progress in academic and functional areas.
35. The District conceded in its Response that it should have conducted an evaluation of Student when it became aware of Student's disabilities well before the IEP team developed Student's IEP on October 26, 2023.
36. The District has admitted that mistakes were made as it relates to the District's handling of Student's case, including following District guidelines.
37. The District proposed compensatory education as a resolution.

Discussion and Conclusions of Law

Issue No. 1

Whether the District met its Child Find Obligation when it failed to evaluate Student for nine months after enrollment when it had reason to suspect that Student was child with a disability in violation of 34 C.F.R. § 300.111 (a)(1)(i) and 6.31.2.10(A) NMAC

Under IDEA, districts have an affirmative ongoing obligation to identify, locate and evaluate all resident children suspected of having disabilities that are in need of special education and related services. 34 C.F.R. § 300.111(a)(1)(i). A Child Find obligation applies for high mobile children. 34 C.F.R. § 300.111(c). Districts must have policies and procedures in place to ensure that all resident students that need special education are timely identified, located and evaluated and that the policies and procedures are developed and implemented. 34 C.F.R. § 300.111(a). Districts cannot sit back and wait for a referral but must seek out students they suspect are in need of special education services. *Compton Unified School District v. Addison*, 598 F3d 1181 (9th Cir. 2010), *cert. denied*, 132 S. Ct. 996 (2012).

Failing to complete Child Find requirements may be a denial of FAPE and may require compensatory education. *T.B. v. Prince George's County Board of Education*, 897 F3d 566 (4th Cir. 2018) (unpublished); *Robertson County School System v. King*, 24 IDELR 1036 (6th Cir. 1996, unpublished); *Lakin v. Birmingham Public Schools*, 70 F.App'X 295 (6th Cir. 2003). A Texas school district that waited six months to evaluate a student that had behavior problems, struggled academically and was hospitalized resulted in a denial of FAPE for that student. *Krawietz v. Galveston Independent School District*, 900 F3d 673 (5th Cir. 2018).

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*, 93 F.3d 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 behaviors 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 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). 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).

The Student attended school all day for from November 19, 2022 until October 18, 2023 when an IEP was finally developed. Student received ABA services, OT, PT, Speech and Adaptive PE services in addition to placement in a life skills classroom. The initial comprehensive evaluation which was started in August, 2023, nine months after Student started at District schools and after the District was in receipt of a report that this second grade Student had never attended school before and was diagnosed with autism at the age of four. In addition, on the first day, Student exhibited behaviors in the second-grade classroom immediately upon arrival. Student was then removed to a life skills classroom that same day that Student still attends. Student needed an adult present at all times. Student was not able to eat with peers in the classroom and would be aggressive toward other students or self-harm or would cry for up to 30 minutes at times without calming down. Parent needed to take Student home on at least five occasions last year because Student could not self-regulate. The teacher repeatedly reached out to administrators and others about what to do with this Student and when would the evaluation be completed. The answer she received was that staff turnover was impacting scheduling and the evaluation would happen. Parent also repeatedly contacted District personnel about the evaluation and special education services for Student. The evaluation was finally scheduled for August, 2023. In the interim until the IEP was completed, the Special Education Teacher provided Student instruction, but the services were not individualized to address Student's needs. The District acknowledge they erred in completing the initial evaluation. Part of the delay was determining whether Student was a transfer student on an IEP or was this a first time Student and an initial referral. There was no justification in the nine-month delay in evaluating Student. Parent provided an outside autism evaluation to the District on Student's first day at school. The District did not take that evaluation and determine eligibility nor determine if additional evaluations were needed. The District failed to take action until August, 2023 to conduct an initial evaluation, despite the fact that student attended in a special education classroom her entire time at the school. The delay resulted in an IEP not developed and implemented until October

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2023.

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

Issue No. 2

Whether the District denied the Student a free appropriate public education (FAPE) when it failed to provide special education services to an eligible Student 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 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.” *Endrew F. v. Douglas County School District. RE-I*, 137 S. Ct. 988 (2017). The Court in *J.L. v. Mercer Island School District*, 592 F.3d 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).

Behaviors that inhibit a child’s learning or that of others should be addressed on the IEP or through a BIP developed by the IEP team. Negative behaviors are not a justification for shortening a school day. *Alleghany County (NC) Schools*, 69 IDELR 193 (OCR 2016). When an interstate transfer of a special education student occurs, the District may adopt and implement the IEP and BIP and provide comparable services or conduct an evaluation and develop and implement a new IEP. 34 C.F.R. § 300.323(f). Comparable services refer to similar or equitable services. 71 Fed Red. 46,681 (2006). The BIP must describe the behavior and positive interventions and supports and other strategies designed to reinforce positive behaviors and reduce negative behaviors that interfere with learning. *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions*, 53 IDELR 268 (OSERS 2009). The IEP team must determine the need for interventions, supports and strategies. 71 Fed. Reg. 46, 683 (2006).

Shortening a student’s school day should be a rare occurrence and for a limited period. *In re: Student with a Disability*, 121 LRP 1039 (SEA WI 2021). The IEP team must determine that the shortened school day is necessary for student to receive FAPE. *Christopher M. v. Corpus Christi Independent School District*, 933 F2d 990, 17 IDELR 990 (5th Cir. 1991). Convenience is not sufficient

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to shorten a school day. *Osseo Area School Independent School District No. 279 v. AJT*, 81 IDELR 256 (MI 2000). The IEP team must document on the IEP the services and supports needed to justify the shortened day. Aggression, lack of academic stamina and resistance to non-preferred tasks are insufficient reasons to shorten a student's school day. *In re: Student with a Disability*, 82 IDELR 44 (SEA WI 2022). The IEP documentation must include all steps and placement options that the District considered and/or implemented before shortening the school day. The IEP must also include a plan for returning the student to a full school day of attendance. 34 C.F.R. § 300.116. While parents/guardians have input in development of the IEP, it is ultimately the responsibility of the IEP team to develop an IEP that provides Student a FAPE. 34 C.F.R. § 300.116.

Student attended school beginning November 10, 2022 but evaluations were not completed nor IEP developed until October 26, 2023. The instruction Student received during that time was not individualized to her but was similar to services that the other students in the class received. Student needed 900 minutes of special education services and related services of OT, PT, SW, ABA, SL and Adaptive PE as determined on the October 26, 2023 IEP but for over nine months, Student did not receive any those needed services. There was no IEP reasonably calculated to meet Student's need because of the District's failure to timely evaluate Student. This was a substantive denial of FAPE for this Student. The IEP that was developed on October 26, 2023 shortened Student's school day. Although Student's school day has increased to 3 ½ hours, it is still well below a full school day. Student still is dysregulated daily and has had to leave school early. Although the District has requested to complete an FBA and develop a BIP, neither was provided to the investigator. Since it was noted that Student's shortened day was because of behaviors, the District needs to develop a BIP that addresses Student's behaviors to allow full time attendance.

At the present time, Student's schedule does not provide sufficient opportunity for Student to work on math deficits because of Student's shortened day. The IEP does not delineate the reasons why Student cannot attend all day except for negative behaviors. Student received two hours of ABA services daily at school and then received additional ABA services at another location in the afternoon. There is no clear plan for when Student will attend a full day of school. They plan to meet every six weeks to determine if Student can increase time by ½ hour. It is the end of March and Student attends from 8-11:30 five days a week. Student will not be full time by the end of the year. The IEP team has not discussed whether additional services or supports would allow Student more time at school. This failure indicates that the IEP was not reasonably calculated to allow Student to make educational progress and, therefore, was a substantive denial of FAPE. In addition, the nine month delay in the evaluation and development of the IEP and provision of services for almost a year that were not individualized to Student's needs were a substantive denial of FAPE.

There were procedural violations on this record that rise to the denial of FAPE. Student received no needed special education services for almost a year. Any instruction Student received was based on what the other students in the life skills class received. When an IEP was finally

developed, Student's day was shortened. Student has a shortened school day because of behaviors, yet the District has not met to determine if additional assessments or services are needed to allow Student full participation for the entire day. Both the delayed evaluation which resulted in no individualized special education services and the shortened school day deprived Student of an educational benefit and was a procedural denial of FAPE.

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

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. § 300.111 (a)(1)(i) and 6.31.2.10(A) NMAC	The District failed to meet its Child Find Obligation when it failed to evaluate Student for nine months after enrollment when it had reason to suspect that Student was child with a disability.
34 C.F.R. § 300.101 and 6.31.2.8 NMAC.	The District denied the Student a free appropriate public education (FAPE) when it failed to provide special education services to an eligible Student.

Required Actions and Deadlines

By April 5, 2024, the District's Special Education Director must assure the OSE in writing that the District will implement the provisions of this Corrective Action Plan (CAP). The OSE 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
 Office of Special Education
 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 CAP are accomplished within the deadlines stated. The District is advised that the OSE 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 OSE.

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 Complaint Resolution Report – 2324-34 – Page 9

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 OSE will notify the parties of any extension granted.

Please carefully read the entire CAP before beginning implementation. One or more steps may require action(s) in overlapping timeframes. All corrective action must be completed no later than December 16, 2024 and reported to the OSE no later than December 30, 2024. All documentation submitted to the OSE 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 OSE</u>	<u>Document Due Date</u>
1.	As described above, the District will submit a written assurance to the PED OSE Corrective Action Plan Monitor that it will abide by the provisions of this Corrective Action Plan (CAP).	April 5, 2024	Written Assurance	April 5, 2024
2.	The District Special Education Director and the school principal shall meet with the PED OSE Education Administrator assigned to the District and the PED OSE CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the District plans to take to ensure that the violations are corrected and do not recur. The District Special Education Director shall be responsible for arranging this meeting with OSE.	April 12, 2024	Notes from meeting, copies of plans	April 19, 2024

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
3.	The District Special Education Director will meet with Student's special education teachers, related service providers, principal, and general education teachers to review the Complaint Resolution Report to ensure that those persons understand the complaint, the violations that were found, and the corrective actions that will be taken to address the violations.	April 19, 2024	Notes from meeting prepared by District	April 26, 2024
4.	<p>The District will hold a Facilitated IEP meeting as soon as possible in order which shall address:</p> <ol style="list-style-type: none"> 1. Review of a BIP developed on February 29, 2024. 2. Whether additional assessments or services are needed to allow full time attendance and ensure progress on goals. 3. Ensuring that Student's ABA provider has necessary access to Student in order to provide ABA services. 4. Plan to reintegrate Student back into the school full time. This reintegration plan shall include ESY services. 5. Compensatory education required in Step 6. 6. Any additional compensatory education determined by the IEP Team to be necessary due to the District's denial of FAPE. <p>The Facilitator shall be independent of the District and shall be selected</p>	April 30, 2024	<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 	May 10, 2024

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	<p>from the PED list of approved facilitators. The Facilitator shall be paid for by the District.</p> <p>The FIEP meeting shall be held on a date and time that is convenient for the 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 including Student's ABA provider.</p>			
5.	<p>If the IEP team decides that additional evaluations are needed to determine if Student has additional needs and services, the evaluation(s) will be completed within thirty days of the completion of the IEP.</p> <p>Conducting these evaluations is subject to the provision of parental consent. If the parent declines to provide consent to evaluate, then the District shall obtain written documentation of parent's refusal to consent.</p>	May 30, 2024	<p>Signed parental consent form Prior Written Notice</p> <p>Evaluation report</p> <p>Alternatively, written documentation of parent's refusal to provide consent to reevaluate.</p>	<p>Within 15 days of receiving signed consent.</p> <p>Within 15 days of completing evaluation report.</p> <p>Within 15 days of receiving parent's refusal to consent to evaluate.</p>
6.	<p>The School shall provide Student with the following compensatory education:</p> <p>a. 560 minutes of Occupational Therapy;</p>	December 16, 2024	Documentation of delivery/provision of compensatory education services, including logs of services recorded in the PED-approved Excel	Monthly from date of compensatory services plan until the compensatory

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	<p>b. 840 minutes of speech language therapy.</p> <p>c. Any additional compensatory education determined to be necessary during the FIEP meeting required in Step 4</p> <p>The schedule for compensatory services should be developed in collaboration with the parent and the Student's ABA provider during the FIEP meeting required in Step 4 and can include provisions for services in the summer months (not as part of normal ESY service time). Compensatory education shall not be provided until student has returned to a full day of education unless parent agrees to alternative schedule that includes compensatory education.</p> <p>The plan for compensatory education shall be documented in Student's IEP or through a formal prior written notice.</p> <p>If the District cannot provide compensatory education through District employed providers, it shall contract with a private provider to deliver these hours of compensatory education.</p>		<p>spreadsheet log provided by the OSE CAP monitor.</p> <p>Prior Written Notice containing plan for compensatory services.</p>	<p>education hours are completed.</p> <p>May 10, 2024</p>
7.	The District will also develop a plan to ensure that Child Find obligations are met at Student's School. This	May 10, 2024	School Child Find Plan	May 17, 2024

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	shall include additional training to School special education staff not required in Step 8.			
8.	<p>The District shall arrange to provide training to District staff (including special education teachers, special education administrators, and related service personnel). The training shall be provided by a person with expertise in special education who was not involved in responding to this complaint and who is approved by PED. The training shall address the following special education topics:</p> <ul style="list-style-type: none"> • Child Find obligations; • how to address outside evaluations and Child Find; • students transferring into district; • addressing behavioral issues, shortened school days; • revision of IEP when progress is not being made. 	July 31, 2024	<p>Submission of proposed trainer and trainer’s resume and proposed presentation for PED 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>May 30, 2024</p> <p>July 1, 2024</p> <p>August 7, 2024</p>

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

Investigated by:

/s/ Michele Bennett

Michele K. Bennett, Esq.

Complaint Investigator

Reviewed by:

/s/ Miguel Lozano

Miguel Lozano, Esq.

Chief Counsel, Office of Special Education

Reviewed and approved by:

DocuSigned by:

Candice Castillo

Candice Castillo, Ed.D.

Deputy Secretary for Identity, Equity, and Transformation

On behalf of:

Margaret Cage, Ed.D.

Director, Office of Special Education