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NEW MEXICO PUBLIC EDUCATION DEPARTMENT
SPECIAL EDUCATION DIVISION
Complaint Resolution Report
Gallup McKinley County Schools
Case No. C2324-13
November 3, 2023

This Report requires corrective action. See pages 24-27.

On September 6, 2023, a complaint was 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;
- interview and correspondence with the Complainant; attempted interview with District’s Director of Special Education; correspondence with District’s Attorney; 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. The Complaint Investigator did investigate all of the issues raised by the complainant.

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 comply with its obligation to provide timely and meaningful consultation with School representatives if the District disagreed with the views of the School representatives on the provision of services or the types of services (whether provided directly or through a contract), by failing to provide to the School representatives a written explanation of the reasons why the District chose not to provide services directly or through a contract, as required by 34 C.F.R. §§ 300.134(e) and 300.136(a)(1); and 6.31.2.11(N)(1) NMAC;**
- 2. Whether the District failed to comply with its obligation to provide timely and meaningful consultation with School representatives regarding the number of parentally-placed children with disabilities attending the School, and the calculation of the proportionate amount of Federal funds to be provided for such parentally-placed children with disabilities at the School, during the 2022-2023 and 2023-2024 school years, as required by 34 C.F.R. §§ 300.133(b) and (c), and 300.136(a)(1); and 6.31.2.11(N)(1) NMAC; and**

- 3. Whether the District failed to provide timely and meaningful consultation with School representatives by not giving due consideration to the views of the School's representatives and not providing a written explanation regarding the District's decision not to fund the salary of a special education teacher at the School after the beginning of the 2023-2024 school year, in violation of 34 C.F.R. §§ 300.134(e), and 300.136(a)(2); and 6.31.2.11(N)(1)(g) NMAC.**

General Findings of Fact

1. The complainant in this matter is the Executive Director of a private school (the Complainant), which private school is identified as "RCS" or "the School" herein. RCS is located within the jurisdictional boundaries of the District.
2. District and RCS documents show that there are many parentally-placed students with disabilities who attend RCS who have been identified, evaluated and designated to receive special education and related services through an Individualized Services Plan (ISP) developed by the District.
3. District and RCS documentation provides that for the 2022-2023 school year, the process designed by the District to provide special education and related services to the eligible students at RCS was for District employees to provide direct services to students on the premises of RCS.
4. The documentation indicates that during the 2022-2023 school year the Special Education Director for RCS was an employee of the District who was paid through RCS's allocation of Part B funds. This employee also provided special education services to students at RCS. This employee shall hereinafter be identified as the "RCS Sped Director/Teacher."
5. The documentation contains many copies of emails between District staff and RCS staff provided by both the District and the Complainant.
6. In an email on November 2, 2022 to the District's Director of Special Education, the RCS Sped Director/Teacher asked if she and the Complainant could meet with District staff to discuss the funding RCS receives through the District. The parties met the following week, and there is no indication that RCS expressed any disagreement with the District regarding funding at that time.
7. The District admits that as early as November of 2022, the District "had been under the understanding that IDEA funding was being provided for an administrative cost, the position of special education Director at [RCS], and that the District preferred to ensure that funds are being used for direct special education and related services in keeping with IDEA requirements."
8. The documentation indicates that on February 2, 2023, RCS requested a meeting with the District regarding their partnership. RCS did not receive a response to this email. On

February 7, 2023, RCS sent another email to schedule a meeting with the District. A meeting was scheduled for February 15, 2023. District staff did not attend this meeting. The parties did meet on February 24, 2023 and discussed, among other things, scheduling an end of year meeting to discuss the process for the 2023-2024 school year.

9. On April 21, 2023, the RCS Sped Director/Teacher sent an email to District staff requesting an end of year meeting between the District and RCS “to ensure we wrap up this year well and set up for success in the fall!” RCS did not receive a response to this email.
10. On April 27, 2023, the RCS Sped Director/Teacher sent another email to District staff “to ensure that this meeting gets scheduled.” District staff replied to this email and stated that a meeting was scheduled for May 3, 2023.
11. On April 28, 2023, the May 3 end of year meeting was canceled by the District.
12. On May 1, 2023, the RCS Sped Director/Teacher sent an email to District staff again requesting that the end of year meeting be rescheduled. The District responded that due to a staff change the District Director of Special Education’s schedule was full and the meeting would be rescheduled once she was available.
13. On May 9, 2023, the RCS Sped Director/Teacher sent another email to District staff stating the following: “Is there a time in the next two weeks that we can have a meeting? We are looking for timely and meaningful consultation regarding supports and services for students. We met back in February and discussed meeting again before the end of the year to finalize an MOU and ensure we are set up for a good start in the fall.”
14. The documentation indicates that on May 11, 2023, the Complainant met with the District’s Director of Title I/Discretionary Grants who explained and documented the amount of, and plan for, expenditures for Title I, and also discussed the need for the end of year meeting regarding IDEA B, and District staff informed him that a meeting was being scheduled for the following week.
15. On May 16, 2023, RCS staff and District staff met to discuss issues for the end of the 2022-2023 school year as well as planning for the 2023-2024 school year. On May 19, 2023, the RCS Sped Director/Teacher sent an email to all of the parties who attended the meeting and expressed appreciation for the partnership with the District and provided her meeting notes regarding “next steps we were planning on taking.” These next steps included the following:
 - a. “send a copy of RCS School Calendar;
 - b. send a list of students with service specifics;
 - c. RCS will invite service providers from the District to ISP meetings;
 - d. the District will look into the use of Synergy for IEP’s (sic); and
 - e. the District has not received the IDEA B allocation information yet, and the District will let RCS know when it does receive it . . .”

16. The Complainant reports that on May 19, 2023, he received an invitation from the District to a private school consultation entitled "Consultation 2." The invitation indicated that several administrators from the District would attend the meeting.
17. The documentation indicates that the Complainant did meet with District staff on May 23, 2023, and discussed both Title I and IDEA Part B services. During this meeting the District informed the Complainant that District employees who worked at RCS would no longer be able to work at a private school, but they could transfer to a District school if they wanted to remain a District employee. The District indicated that the provision of special education and related services would need to be provided by a third-party provider with the still-unknown allocation to be received by RCS. The Complainant reports that this was a departure from a 15 year pattern in how the District had provided services for RCS. The Complainant reports that District staff expressed concern that private school employees had different schedules than other District schools and it was a lot of work to figure out calendars and deal with Human Resources issues. The Complainant reports that he understood that changes might need to be made, but asked if the District could wait a year before making the changes. The Complainant was also aware that the affected teachers had already signed their letters of intent with the District. In a follow-up email on the same date the District's Director of Title I/Discretionary Grants requested the Complainant to sign and provide the signature page regarding the consultation.
18. Complainant signed an IDEA B Application Private School Consultation Form for 2023-2024 regarding the May 23, 2023, consultation. The Complainant reports that this Consultation Form is not accurate because at the May 23, 2023, meeting the parties did not address Child Find, RCS's proportionate share of funds, the Consultation Process, or a written explanation by the District regarding the services it was proposing.
19. On May 24, 2023, the District's Assistant Superintendent of Personnel sent an email to the RCS Sped Director/Teacher and other special education teachers which stated, in relevant part, as follows: "This is to inform you that [the District] is implementing a different model of operation for Private School Services. With the restructuring of services provided to private schools provided by [the District], your current position is being eliminated. As you have signed a letter of intent, you will still have a position within the district."
20. A follow-up meeting to the May 23, 2023, "Consultation 2" meeting was scheduled for May 30, 2023. This meeting was canceled due to a groundbreaking ceremony at a District school.
21. On May 31, 2023, the Complainant sent an email to District staff regarding the RCS special education staff whose employment was affected by the change announced by the District. The Complainant stated that his understanding was that "we can use the money allocated to [RCS] to pay the staff but that we need to do it through a third party. Do we

get to choose the third party or is that something that you do? . . . I assume that the Title and Idea (sic) money can not (sic) go to [RCS] so we can have them be [RCS] employees . . . At [RCS] we always have shaped these major changes during the school year so we feel confident in March of any changes. As you can expect, this one caught me off guard. I am disappointed that this was not communicated earlier in the year.”

22. The Complainant sent a second email on May 31, 2023, asking whether the IDEA allocation for RCS had been determined. The District replied and stated that NMPED had not released the portion of the IDEA B application related to Private Schools, but that it was “coming very soon.” Complainant replied to this email and confirmed a meeting scheduled by the District “for June 13 for our continued consultation.” Complainant also requested that he receive an answer to his earlier questions regarding RCS staff before the June 13 meeting. The Complainant reports that he did not receive a response to this email.
23. On June 13-14, 2023, the Complainant met with 12 District staff members for further consultation. The District’s Agenda and signature pages provide that the meeting was a continued discussion of administrative services and staffing to provide private school students Title I and special education services for fiscal year 2024. The meeting notes from RCS provide, in relevant part, as follows:
 - a. RCS requested to push the change “to the following school year to allow all participants to prepare and have it go smoothly.”
 - b. The District denied RCS’s request and no written explanation was provided.
 - c. The District informed RCS that Stepping Stones had the contract with the District for the IDEA B funds.
 - d. The Complainant asked for contact information for Stepping Stones so he could “reach out to them before the switch begins.”
24. On June 15, 2023, the Complainant sent an email to District administrative and special education staff. The Complainant indicated his understanding of the District’s desire to “move in this direction,” but requested that the District “give yourselves and ourselves the time to make sure we do this right-so that we can honor your [District] staff that work with [RCS] students and so that we can be sure we will continue to provide excellence for our Title and Sped students.”
25. The District’s Superintendent quickly responded to Complainant’s email and stated, in relevant part, as follows: “I am not sure of what further questions you have not had answered but per our phone discussion we have reached out to ensure that the current SPED teacher personnel will be able to remain at your school site with this transition. I hope this helps resolve part of your concerns. I’ll let my team answer other questions that you have asked.”

26. On June 20, 2023, Complainant sent an additional email to the District's Superintendent restating his former questions, and adding an additional question, as follows:
 - a. Contact information for Stepping Stones was requested;
 - b. "District staff had talked about creating an MOU regarding services and ability to access synergy for IEP's. If Stepping Stones is involved is the district no longer involved in any aspect of RCS's provision of services for the students such as evaluation, testing, auxiliary services, and software? Would RCS have an MOU with Stepping Stones where RCS works directly with them and the District gives Stepping Stones RCS's allocation?"
 - c. "Is there any merit in trying to delay the shift in approach for a year so we can be settled and ready to go? . . . I am still concerned about the timeline."
 - d. "The RFP is out for the third party to work with our Title I services. Can we get a copy of the RFP?"
27. On June 22, 2023, the District's Assistant Superintendent of Personnel responded to the questions by the Complainant, in relevant part, as follows:
 - a. "Sure, let me know when you are available and we can meet with [Stepping Stones]."
 - b. "After consideration, the district has decided we will need to move forward with the proposed plan."
 - c. "The RFP is public and you can request a copy from [person at the District]."
28. On June 26, 2023, the Complainant and the District's Assistant Superintendent of Personnel met with the representative for Stepping Stones regarding the hiring of the RCS staff. The Representative indicated that he could get the District teachers hired by Stepping Stones so they can serve the students of RCS. In a follow-up email, the Complainant indicated he would look forward to hearing about RCS's allocation and what services RCS will be able to purchase once the allocation was known.
29. On July 10, 2023, Stepping Stones sent an email to RCS stating that RCS's Sped Director/Teacher was hired for the 2023-2024 school year.
30. On July 24, 2023, the RCS Sped Director/Teacher sent an email to District staff asking again about access to Synergy for RCS to write IEP's, the process for evaluations, the assigning of therapists for Speech, OT and PT, and Social Work supports. The District did not respond to this email.
31. Between July 24 and July 28, 2023, the documentation includes many emails between District staff regarding the provision of special education services by Stepping Stones to students at RCS. On July 24, 2023, the District's Procurement Director informed District staff that the ancillary contract for special education services at RCS was signed.
32. On July 27, 2023, the Complainant contacted the representative for Stepping Stones and discussed how to move forward with services when RCS did not know the allocation. The

Complainant contacted the District's Assistant Superintendent of Personnel regarding this funding question, and no response was received.

33. On August 2, 2023, the Complainant sent an email to District staff which stated as follows: "I am hoping those involved in the Sped process at [RCS] would be able to sit down together soon so that we are all on the same page; [the District], Stepping Stones, [RCS]. This would be very helpful as we welcome new students." The Complainant reports that at this time RCS did not know what the allocation was, but was aware that the RCS Sped Director/Teacher was working through Stepping Stones.
34. On August 3, 2023, the District's Director of Special Education sent an email to the Complainant asking for copies of all of RCS's special education students' service plans. Since this would have included about 800 pages, the District and RCS agreed for RCS to provide spreadsheets on related services and classroom services/supports for its students. The parties agreed to meet on August 8 to discuss the students and services at RCS.
35. On August 8, 2023, RCS staff and District staff met to discuss the special education students and their needs at RCS.
36. On August 14, 2023, the RCS Sped Director/Teacher sent an email to District Staff with her notes from the meeting which provide, in relevant part, as follows:
 - a. RCS shared spreadsheets of related services and all services that RCS students are receiving;
 - b. Therapies: the District will provide Speech, OT, PT and Social Work. If therapies for certain specific students are provided by a tele-therapist, the District will provide an assistant to facilitate those sessions;
 - c. Evaluations: the Evaluator used by RCS will have to go through the District;
 - d. Action Steps: District staff will look into assigning Therapists and providing RCS with their contact information to begin to schedule services.
37. Later in the day on August 14, 2023, the RCS Sped Director/Teacher sent an email to District staff which stated, in relevant part, as follows: "I am reaching out to update you all on our plan for re-evaluations and initial evaluations for this year. We are contracting with [Evaluator] to complete Independent Educational Evaluations (IEE) for our students that we will then send to your Evaluations department and schedule an EDT to update Synergy. Our plan is to do this for all students due for a re-evaluation and initial student packets this year." Upon receipt of this email, the District Director of Special Education emailed the Assistant Superintendent of Personnel and indicated they needed to meet and discuss the RCS evaluations as soon as possible.
38. On August 15, 2023, District staff sent an email to the Complainant asking to schedule a meeting for the next day, August 16.

39. On August 16, 2023, the Complainant and the Sped Director/Teacher met at the District's office with District staff. The notes of this meeting provide, in relevant part, as follows:
- a. The District informed RCS that IDEA B allocation funds cannot be used to pay the RCS Sped Director/Teacher's salary because IDEA B funds can't be used to cover administrative work. The District wants to use the allocation to cover therapies. RCS replied that the majority of the Sped Director/Teacher's schedule is spent directly with students and RCS would get a copy of her schedule to the District.
 - b. RCS asked how much therapies will cost and the District did not know.
 - c. RCS ask about the contract that the Sped Director/Teacher signed with Stepping Stones and the District stated they didn't know how the Sped Director/Teacher had a contract or was being paid because the District never signed a purchase order for her.
 - d. The District informed RCS for the first time that the IDEA B Allocation for RCS for the 2023-2024 school year is \$106,706.
 - e. RCS asked about timely and meaningful consultation in regards to the allocation. The District did not respond to this concern in writing.
 - f. A follow-up meeting was scheduled for August 25, 2023.
 - g. RCS asked the District to inform them before the next meeting of the cost of Speech so RCS could better understand how the IDEA B allocation might be spent. The District did not respond to this request in writing.
40. On August 24, 2023, RCS sent the RCS Sped Director/Teacher's schedule to Stepping Stones and the District's Assistant Superintendent of Personnel. The documentation provided by the Complainant includes a copy of this schedule which provides as follows:
- a. 7:45-8:00 - Check-Ins with Staff/Assistants;
 - b. 8:05-8:30 – Prep;
 - c. 8:35-10:00 – 8th Grade Literature, Push-In Support;
 - d. 10:15-10:45 – 6th Grade Math Push-In Support;
 - e. 10:45-11:15 – 2nd Grade Reading Push-In;
 - f. 11-15-12:00 – 5th Grade Math Support Push-In;
 - g. 12:15-12:50 – 6th Grade Reading Pullouts;
 - h. 12:50-1:35 – Lunch;
 - i. 1:40-2:10 - Zones of Regulation Group;
 - j. 2:20-2:55 – 5th Grade Writing Pullout;
 - k. 3:00-3:10 - Dismissal – Connecting with Parents; and
 - l. 3:15-3:45 - Staff Meetings.
41. The meeting scheduled for August 25, 2023 was canceled by the District when RCS staff arrived at the District for the meeting and was rescheduled to August 28, 2023.

42. On August 28, 2023, RCS staff and District staff met for further consultation. The RCS staff notes of this meeting provide, in relevant part, as follows:
- a. District staff stated their desire to re-enter consultation with RCS and to bring the State into the process. The District will bring an attorney to the consultation. The parties need to move from anecdotal to more formal discussions and schedule more meetings.
 - b. The District stated that the IDEA B allocation funds should be used to pay for direct special education and related services and not for administrative costs such as a special education director position. The District stated that the RCS Sped Director/Teacher was not providing direct services to students and the RCS Sped Director/Teacher disagreed, as evidenced by her schedule. The District admitted that the RCS Director's schedule had not been shared by the District with everyone at the meeting.
 - c. The parties discussed record-keeping for the allocation funds spent on behalf of RCS. RCS requested that the Federal accounting form be shared and the District stated it was online.
 - d. The District shared a document describing the costs of Therapists for students at RCS. The breakdown of therapy costs was identified as follows:
 - i. The Allotment for RCS = \$106,706;
 - ii. Speech: @ \$87/hour = approximately \$40,000;
 - iii. Educational Assistant: @\$38/hour = approximately \$11,000;
 - iv. PT: @\$84/hour = approximately \$900;
 - v. OT: @\$84/hour = approximately \$8,000;
 - vi. Diagnostician: @\$81/hour = \$0; and
 - vii. Social Work: @\$78/hour = approximately \$3,600.
 - viii. Total approximate cost = \$63,500.
 - e. RCS asked the District what happens to the balance of the allocation, and the District said it can go to PD, AT, additional services, and IEP meetings. RCS stated that such additional expenses would still not use all of the Allotment. The District did not respond.
 - f. RSC informed the District that it would have its own evaluator conduct evaluations.
 - g. District expressed concerns with RCS's ISPs, and RCS responded that the District has not read the ISPs of the students at RCS.
 - h. The District stated that all decisions are made based off data and evidence of progress by the students, and progress is not being seen by the District. RCS replied that the District has never asked to see progress or evidence of progress by the students at RCS.

43. On August 31, 2023, the District sent an email to the Complainant proposing several dates for further consultation.
44. The Complainant reports that during the first week of September 2023, RCS contracted directly with Stepping Stones to pay for the services of service providers and the Sped Director/Teacher, who was hired by Stepping Stones as a 5th grade special education teacher. The documentation includes four invoices from Stepping Stones to RCS for this employee for services provided from July 23, 2023 to September 16, 2023 in the total amount of \$17,600.
45. On September 5, 2023 the parties agreed to meet on September 19, 2023.
46. On September 6, 2023 RCS filed its Complaint against the District. The complaint is dated August 29, 2023.
47. The Parties have engaged in communication and meetings after the Complaint was filed, but the complaint investigator is not aware that the parties have resolved the issues set forth in the Complainant's Complaint.
48. The documentation from the District contains the District's policies and procedures regarding the District's obligation to consult with representatives of RCS regarding the provision of services or the types of services to students with disabilities at RCS. A review of the District's policies and procedures indicates that they do comport with the Federal regulations and State rules regarding parentally-placed students with disabilities in private schools located in the District.
49. The documentation from the District includes the District's IDEA B Grant Application for the 2022-2023 school year, which indicates that it was provided to the District on May 12, 2022. This Grant Application provides, in relevant part, as follows:
 - a. Total number of children with disabilities in public school: 1543;
 - b. Total number of parentally-placed eligible children in all private schools: 51;
 - c. Total number of Eligible Children: 1594;
 - d. District's Basic Allocation: \$3,786,618.44;
 - e. Total Allocation to be distributed to all private schools: \$121,152.79;
 - f. Total number of parentally-placed eligible children in RCS: 45; and
 - g. Total Allocation for RCS: \$106,899.52.
50. The documentation from the District includes the District's IDEA B Grant Application for the 2023-2024 school year, which indicates that it was provided to the District on June 20, 2023. This Grant Application provides, in relevant part, as follows:
 - a. Total number of children with disabilities in public school: 1519;
 - b. Total number of parentally-placed eligible children in all private schools: 54;
 - c. Total number of Eligible Children: 1573;
 - d. District's Basic Allocation: \$3,328,210.46;
 - e. Total Allocation to be distributed to all private schools: \$114,255.16;

- f. Total number of parentally-placed eligible children in RCS: 52; and
- g. Total Allocation for RCS: \$110,023.49.

51. The documentation from the District includes a count of students with disabilities who have been parentally placed at RCS for school years 2022-2023 and 2023-2024, as follows:

School Year	Students with disabilities	Evaluations conducted	Total served
2022-2023	54	19	66
2023-2024	52	11	63

Discussion and Conclusions of Law

Issue No. 1

Whether the District failed to comply with its obligation to provide timely and meaningful consultation with School representatives if the District disagreed with the views of the School representatives on the provision of services or the types of services (whether provided directly or through a contract), by failing to provide to the School representatives a written explanation of the reasons why the District chose not to provide services directly or through a contract, as required by 34 C.F.R. §§ 300.134(e) and 300.136(a)(1); and 6.31.2.11(N)(1) NMAC.

The IDEA Federal regulations and State rules contain provisions regarding children with disabilities who have been enrolled by their parents in private schools. See 34 C.F.R. §§ 300.130 - 300.144; and 6.31.2.11(N)(1) NMAC. The regulations and rules provide that the Complainant in this matter, the Executive Director of a private school located in the District, has the right to submit a state complaint to the NMPED alleging that the District did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the Complainant. 34 C.F.R. § 300.136(a); and 6.31.2.11(N)(1)(g) NMAC. Such a state complaint must be filed in accordance with the procedures described in the Federal regulations and State rules. 34 C.F.R. § 300.140(c); and 6.31.2.11(N)(1)(h) NMAC.

As noted above, the Complainant is the Executive Director of RCS, which is a private religious school located within the boundaries of the District. The facts indicate that there are approximately 52 students with disabilities who have been enrolled by their parents in RCS. RCS meets the definition of an elementary school in 34 C.F.R. § 300.13, and a secondary school defined in 34 C.F.R. § 300.36.

The IDEA and state rules provide that a district in which private elementary schools and secondary schools are located is responsible, after timely and meaningful consultation with private school representatives, for conducting the Child Find process to ensure the equitable participation of parentally-placed private school children and determine the number of parentally-placed children with disabilities attending private schools located in the district. 34 C.F.R. §§ 300.131(a) and (b). As part of its Child Find obligation, the district is responsible for evaluating the child and holding an IEP team meeting to consider the assessments and determine whether the child is eligible for special education and related services, in a time period comparable to that for students with disabilities in public schools. 34 C.F.R. § 300.131(c) and (e). The cost of carrying out the Child Find requirements at the private school, including individual evaluations, is the responsibility of the district. 34 C.F.R. § 300.131(d). Moreover, the district is responsible for conducting reevaluations of children with disabilities enrolled by their parents in the private schools located in the District. Under 34 C.F.R. § 300.303(a), a district must ensure that a reevaluation of each child with a disability is conducted in accordance with 34 C.F.R. §§ 300.304 through 300.311 if: (1) the LEA determines that the child's educational or related services needs, in light of the child's academic achievement and functional performance, warrant a reevaluation; or (2) the child's parent or teacher requests a reevaluation. *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schs.*, 80 IDELR 197 (OSERS 2022). A reevaluation may occur not more than once a year, unless the parent and LEA agree otherwise; and must occur at least once every three years, unless the parent and LEA agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303(b). The obligation to conduct child find, including individual evaluations, exists independently from the obligation to provide equitable services. The costs of child find activities, such as evaluations, may not be considered in determining whether the LEA has spent an appropriate amount on providing special education and related services to parentally-placed private school children with disabilities. 34 C.F.R. § 300.131(d). *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schs.*, 80 IDELR 197 (OSERS 2022).

Under the IDEA and State rules, LEAs are required to provide parentally-placed private school children with disabilities an opportunity to participate in the programs assisted or carried out with IDEA Part B funds by providing them with special education and related services, including direct services, otherwise described as equitable services. 34 C.F.R. § 300.132(a). The LEA must develop and implement a services plan for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services. 34 C.F.R. §§ 300.132(b) and 300.137(c). Each LEA must maintain and provide to the SEA a count of the number of children evaluated, the number of children determined to be children with disabilities, and the number of children served. 34 C.F.R. § 300.132(c).

The IDEA and State rules require districts to spend a proportionate amount of IDEA Part B funds on providing special education and related services to private school children with disabilities to the extent consistent with the number and location of children with disabilities serviced by the district. 34 C.F.R. § 300.132(a), and 34 C.F.R. § 300.133(a); 6.31.2.11(N)(1)(e) NMAC. The annual count for determining the proportionate share of Part B funds should be of all children with disabilities attending private schools within the district and include all children who have been evaluated and found eligible for special education and related services. The count includes students whose parents have rejected the provision of services and placed them in a private school at their own expense, provided those children are enrolled in a school located in the district served by the LEA. 34 C.F.R. § 300.133(c). The proportionate share is calculated as the same proportion of the LEA's total subgrant of Part B funds as the number of private school children with disabilities is to the total number of children with disabilities in the LEA's jurisdiction. 34 C.F.R. § 300.133(a)(1). The state is not required to distribute state funds for such private school students, and the constitution and laws of New Mexico prohibit public agencies from spending state funds to assist private schools or facilities or their students. 6.31.2.11(N)(1)(e) NMAC. However, it is permissible for districts to spend more than the minimum amount of their Part B funds allocated to those private school children as long as the district has met all of its other IDEA obligations, including the provision of FAPE to children with disabilities in public schools. *Letter to Apostle*, 60 IDELR 165 (OSEP 2012).

As noted above, equitable services are special education and related services, including direct services, provided to parentally-placed private school children with disabilities in accordance with the provisions of IDEA and its implementing regulations. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. 34 C.F.R. § 300.137(a); 6.31.2.11(N)(1)(f) NMAC. Each LEA must initiate and conduct meetings to develop a services plan that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, and that is developed, reviewed, revised and implemented in accordance with 34 C.F.R. §§ 300.137 through 300.139. Equitable services must be provided by employees of a public agency, or through contract by the public agency with an individual, association, agency, organization, or other entity. 34 C.F.R. §§ 300.137(c) and 300.138(c). An LEA may use IDEA Part B funds to make public school personnel available to provide services in non-public facilities to the extent necessary to provide equitable services for parentally-placed private school children with disabilities, and if those services are not normally provided by the private school. 34 C.F.R. § 300.142(a). An LEA may use IDEA Part B funds to pay for the services of an employee of a private school to provide equitable services if the employee performs the services outside of his or her regular hours of

duty and the employee performs the services under public supervision and control. 34 C.F.R. § 300.142(b).

The Federal regulations and State rules provide that IDEA Part B funds for equitable services may not be paid directly to a private school. The LEA must control and administer the funds used to provide special education and related services to parentally-placed private school children with disabilities. 34 C.F.R. § 300.144(a). An LEA may place equipment and supplies in a private school for the period of time needed for the Part B program. 34 C.F.R. § 300.144(b). However, an LEA may not use IDEA Part B funds to finance the existing level of instruction in a private school, and such funds may not be used for meeting the needs of a private school or the general needs of the students enrolled in the private school. 34 C.F.R. §§ 300.141 and 300.144(e). Moreover, the U.S. Department of Education has interpreted “the reference to ‘special education and related services’ to mean that administrative costs could not be included in the amount each LEA must spend to meet this requirement. Thus, an LEA may not expend the proportionate share of IDEA Part B funds on administrative costs. *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools*, 80 IDELR 197 (OSERS 2022). Requirements for the cost principles governing the allowable use of Federal funds are found in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. § 200(E).

The Federal regulations and State rules require LEAs to consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children. 34 C.F.R. § 300.134; 6.31.2.11(N)(1)(g) NMAC. Effective consultation will provide all private school and parent representatives with an opportunity to express their views and to have those views considered by the district before the district makes decisions regarding services provided to parentally placed private school children with disabilities. A unilateral offer of services by an LEA with no opportunity for discussion is not adequate consultation, as such an offer does not meet the basic requirements of the consultation process. *Letter to Rothman*, 30 IDELR 269 (OSEP 1998); and *Questions and Answers on Serving Children With Disabilities Placed by Their Parents in Private Schs.*, 80 IDELR 197 (OSERS 2022). To ensure timely and meaningful consultation, an LEA must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities regarding the following:

- a. The child find process, including how the private school child can participate equitably, and how parents, teachers, and private school officials will be informed of the process;
- b. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities, including the determination of how the proportionate share of those funds was calculated;

- c. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
- d. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of the types of services, including direct services and alternate service delivery mechanisms, how special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children, and how and when those decisions will be made; and
- e. How, if the local educational agency representatives disagree with the views of the private school officials on the provision of services or the types of services whether provided directly or through a contract, the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to adopt the recommendations of the private school officials.

34 C.F.R. § 300.134.

The Federal regulations and State rules do not contain a specific definition of what “meaningful” consultation requires. However, it is reasonable to conclude that it must include all of the subjects identified in 34 C.F.R. § 300.134, it must give due consideration to the views of the private school official, it must be ongoing, and it must be timely. 34 C.F.R. §§ 300.134 and 300.136; 6.31.2.11(N)(g) NMAC. Similarly, the regulations and rules do not contain a specific timeline for conducting the consultation meetings. The Office of Special Education and Rehabilitative Services (OSERS) has stressed that timeliness is critical to effective consultation and all parties should work together to properly develop an effective timeline for consultation. *Questions and Answers on Serving Children With Disabilities Placed by Their Parents in Private Schs.*, 80 IDELR 197 (OSERS 2022). With a lack of specific direction from the regulations and rules, states and LEAs are left to determine when consultation should occur. However, the Office of Special Education Programs (OSEP) remarked that many jurisdictions "have found that it works well when consultation takes place, at a minimum, to review the child find process, discuss the child count, plan the types, delivery and location of services being offered, and establish a consultation timeline prior to the start of each school year." *Letter to Radziwill*, 70 IDELR 234 (OSEP 2017). When timely and meaningful consultation has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools. 34 C.F.R. § 300.135(a). The affirmation should include a statement that the consultation has occurred and continued throughout the school year. A signature on an attendance sheet is not a proper affirmation of

proper consultation because the attendance sheet lacks such an affirmation. *Questions and Answers on Serving Children With Disabilities Placed by Their Parents in Private Schs.*, 80 IDELR 197 (OSERS 2022).

Finally, it must be noted that after timely and meaningful consultation has occurred between the LEA and representatives of parentally-placed private school children with disabilities regarding decisions about the services that will be provided, the LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities. 34 C.F.R. § 300.137(b)(2).

The facts set forth above provide a good timeline for the interactions of the parties regarding consultations undertaken by the District with RCS during the 2022-2023 and 2023-2024 school years. The facts show that meetings took place in the Fall, Winter and Spring of the 2022-2023 school year, which were almost always at the request of RCS. In late October 2022, RCS asked if the District could meet with RCS staff to discuss the funding RCS receives through the District. The parties met the following week. The District was aware at the time of that meeting in November, 2022, that the allotment of Part B funds to RCS from the District was being used to pay for the salary of three District employees who worked at RCS, one of whom was the Sped Director/Teacher. The documentation does not contain any indication that the District disagreed with, or even discussed, the use of RCS's allotment to pay for the salary of this employee.

In early February, 2023, RCS made several requests to the District to meet to discuss their partnership with the District and schedule an end of year meeting with the District to prepare for the following year. The parties met in late February, 2023. RCS reports, that the District did not discuss, or disagree with, the use of RCS's allocation to pay for the salary of the Sped Director/Teacher, and there is no indication in the documentation to the contrary. In later April and early May, 2023, RCS made numerous attempts to schedule a meeting with the District to "wrap up the current school year and finalize an MOU for the next school year," which were not responded to, or were canceled or rescheduled by the District. The parties did meet on May 16, 2023. The meeting notes from RCS staff indicate that the discussion of the parties included the next year's calendar, services for students, and whether the RCS allotment had been determined (which it had not been). Neither party reports that there was any discussion regarding the use of RCS's allocation to pay for the salary of the Sped Director/Teacher or how, where, and by whom special education and related services would be provided for the students with disabilities at RCS for the 2023-2024 school year.

Following the meeting on May 16, 2023, the District quickly scheduled a meeting with RCS for May 23, 2023, identified by the District as "Consultation 2." At this meeting, the District informed the Complainant that District employees, including the Sped Director/Teacher, would no longer

be able to work at RCS. The District also informed RCS that the provision of special education and related services to students at RCS would need to be provided by a third-party provider, which was a departure from a 15 year pattern in how the District had provided services for RCS. The allocation received by RCS was still unknown at this point. The Complainant asked if the District could wait a year before making the changes due, in part, to the fact that the affected teachers had already signed their letters of intent with the District. The Complainant reports that after the meeting the District requested that he sign an IDEA B Application Private School Consultation Form for 2023-2024, which he did sign. However, the Complaint alleges that the May 23, 2023 meeting was not actually a full "consultation" because the parties did not discuss child find, the calculation of the proportionate share, the consultation process with the parties or a written explanation of the proposed provision of services. On May 24, 2023, the District sent an email to the RCS Sped Director/Teacher and the two other teachers that their positions were being eliminated.

On May 31, 2023, the Complainant sent several emails to the District requesting another consultation meeting to discuss the situation with the RCS staff whose positions had just been eliminated. The Complainant stated his understanding from the previous meeting that RCS could use its allocation "to pay the staff but that we need to do it through a third party." The Complainant further stated that the recent change by the District had caught them off guard and that he was disappointed that the change was not communicated earlier in the year. The District scheduled another meeting with RCS on June 13, 2023 for a "continued consultation." The meeting notes from RCS state that RCS requested to push the change "to the following school year to allow all participants to prepare and have it go smoothly." The District denied RCS's request and no written explanation was provided. The documentation includes an agenda and a signature page signed by the Complainant and 12 District staff, with no written affirmation. On June 15 and June 20, 2023, the Complainant sent additional emails to the District requesting that the proposed changes not occur or wait for a year to be implemented. On June 22, 2023, the District's Assistant Superintendent of Personnel responded and stated "[a]fter consideration, the district has decided we will need to move forward with the proposed plan."

Following the meetings and communications in June 2023, RCS and the District's Assistant Superintendent of Personnel met with Stepping Stones, the contractor chosen by the District to provide special education and related services to the students at RCS, to set up the employees and services for the coming school year. On July 10, 2023, Stepping Stones hired the three former District employees, including the Sped Director/Teacher. Between June 26 and August 16, 2023, RCS staff had many communications and meetings with District staff in which RCS continually requested what the allocation for 2023-2024 would be with no response from the District. In a meeting on August 16, 2023, the District finally informed RCS of what its allocation would be. The

documentation indicates that the District was aware of the allocation to RCS on or about June 20, 2023. RCS asked about timely and meaningful consultation concerning the allocation and the District did not respond to this concern in writing. In this meeting the District also informed RCS that IDEA B allocation funds would not be used to pay the RCS Sped Director/Teacher's salary because her position was administrative. The District wanted to use the allocation to cover therapies. RCS replied that the majority of the Sped Director/Teacher's schedule is spent directly with students and provided a copy of her schedule to the District. A review of the Sped Director/Teacher's schedule indicates that 80% of her time is spent teaching special education students at RCS. District staff further stated that they didn't know how the Sped Director/Teacher had a contract or was being paid because the District never signed a purchase order for her. A follow-up meeting was scheduled for August 25, 2023, which was canceled and eventually rescheduled by the District to September 19. During the first week of September 2023, RCS contracted directly with Stepping Stones to pay for the services of service providers and the Special Education Director, who was hired by Stepping Stones as a 5th grade special education teacher. The documentation includes four invoices to date from Stepping Stones to RCS for this employee for services provided from July 23, 2023 to September 16, 2023 in the total amount of \$17,600.

The District alleges that it has engaged in timely, on-going, and meaningful consultation with RCS representatives consistent with the IDEA implementing regulations and State rules. The District's position is that it had attempted to explain to RCS that it had been in the process of trying to formalize these consultation meetings and the attendant procedures related to determining how to properly, and in a compliant manner, fund services for parentally-placed private school children. The District further alleges that it took into consideration any disagreements, when expressed, by RCS.

The facts do reflect that there were many communications and meetings between the parties during the 2022-2023, and at the beginning of the 2023 2024, school year. However, several of the issues of paramount importance to RCS were not discussed by the District until, at the earliest the end of the 2022-2023 school year. When the parties met on May 16, 2023, there was no discussion about the manner in which services would be provided to students at RCS. However, one week later the parties met again and the District informed RCS that District employees would no longer be able to work at RCS and the provision of special education and related services to students at RCS would need to be provided by a third-party provider. RCS reports that it was completely taken off-guard by this late communication and RCS objected to the District's position on numerous occasions. It is concluded that the documentation does not contain an appropriate written explanation of the reasons why the District chose not to provide services directly to RCS. It is further concluded that the District's consultation with RCS regarding these issues was not

timely provided by the District. Therefore, it is concluded that the District failed to comply with its obligation to provide timely and meaningful consultation with School representatives if the District disagreed with the views of the School representatives on the provision of services or the types of services (whether provided directly or through a contract), by failing to provide to the School representatives a written explanation of the reasons why the District chose not to provide services directly.

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

Issue No. 2

Whether the District failed to comply with its obligation to provide timely and meaningful consultation with School representatives regarding the number of parentally-placed children with disabilities attending the School, and the calculation of the proportionate amount of Federal funds to be provided for such parentally-placed children with disabilities at the School, during the 2022-2023 and 2023-2024 school years, as required by 34 C.F.R. §§ 300.133(b) and (c), and 300.136(a)(1); and 6.31.2.11(N)(1) NMAC.

The facts set forth above establish that the IDEA B Grant Application, which calculates the Part B allocation of funds for RCS, is dated June 20, 2023, and is presumed to have been received by the District on or about June 20, 2023. The documentation regarding the count of children with disabilities at RCS for the 2023-2024 school year appears to be accurate and, therefore, the calculation of the allocation for RCS also appears to be accurate. However, the concern with respect to Issue No. 2, is, once again, whether timely consultation with RCS occurred. The facts show that the District did not inform RCS regarding its allocation until a meeting on August 16, 2023, which was almost 2 months after it knew what the allocation would be, and after classes began on August 10, 2023. The facts show that RCS had been requesting this information since the previous April. This was especially important to RCS in view of the fact that it had been informed by the District that a third-party contractor would be required to provide special education and related services to the students at RCS, and the cost of those services was not known. It is concluded that the District did not provide timely and, therefore, meaningful consultation with RCS regarding its allocation. Therefore, it is concluded that the District failed to comply with its obligation to provide timely and meaningful consultation with School representatives regarding the calculation of the proportionate amount of Federal funds to be provided for parentally-placed children with disabilities at the School, during the 2022-2023 and 2023-2024 school years.

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

Issue No. 3

Whether the District failed to provide timely and meaningful consultation with School representatives by not giving due consideration to the views of the School's representatives and not providing a written explanation regarding the District's decision not to fund the salary of a special education teacher at the School after the beginning of the 2023-2024 school year, in violation of 34 C.F.R. §§ 300.134(e), and 300.136(a)(2); and 6.31.2.11(N)(1)(g) NMAC.

The facts set forth above provide that the District believed, as early as November 2022, that the salary of RCS's Sped Director/Teacher was an administrative expense and should not be paid for out of RCS's allocation. The District is correct that administrative expenses should not be paid for from the Part B allocation of funds for a private school. It is also true that an employee whose sole function and job description is that of a special education director would appropriately be described as an administrative position. The District is the final decision-maker with respect to whether it will provide services to students at RCS directly or through a contract. However, the District must give timely due consideration to the views of RCS regarding this issue. In this situation the District employee who had the title of Special Education Director at RCS did not function as a special education director but was actually a special education teacher with some training and administrative duties. RCS reports that it is a small school and could not afford to hire a full-time special education director. The documentation contains a 2023-2024 schedule for this employee, which was also provided to the District by RCS on August 24, 2023. The schedule clearly shows that this employee is mainly a teacher and that more than 80% of her school day is spent providing special education services to students at RCS. RCS clearly communicated to the District that it preferred to have the salary of this employee paid, directly or through a contract, with its Part B allocation. The District denied this request, without timely considering this employee's schedule and the views of RCS, without a great deal of discussion and without a written explanation of the reasons for this decision.

Therefore, it is concluded that the District failed to provide timely and meaningful consultation with School representatives by not giving due consideration to the views of the School's representatives and not providing a written explanation regarding the District's decision not to fund the salary of a special education teacher at the School after the beginning of the 2023-2024 school year.

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

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. §§ 300.134(e) and 300.136(a)(1); and 6.31.2.11(N)(1) NMAC.	The District failed to comply with its obligation to provide timely and meaningful consultation with School representatives by failing to provide to the School representatives a written explanation of the reasons why the District chose not to provide services directly.
34 C.F.R. §§ 300.133(b) and (c), and 300.136(a)(1); and 6.31.2.11(N)(1) NMAC.	The District failed to comply with its obligation to provide timely and meaningful consultation with School representatives regarding the calculation of the proportionate amount of Federal funds to be provided for parentally-placed children with disabilities at the School, during the 2022-2023 and 2023-2024 school years.
34 C.F.R. §§ 300.134(e), and 300.136(a)(2); and 6.31.2.11(N)(1)(g) NMAC.	The District failed to provide timely and meaningful consultation with School representatives by not giving due consideration to the views of the School's representatives and not providing a written explanation regarding the District's decision not to fund the salary of a special education teacher at the School after the beginning of the 2023-2024 school year.

Required Actions and Deadlines

By November 10, 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 February 2, 2024, and reported to the SED no later than February 16, 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 Department</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).	November 10, 2023	Written Assurance Letter/Email	November 10, 2023
2.	The District Special Education Director shall meet with the PED SED Education Administrator assigned to the District and the PED SED CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the District and School plan 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.	November 17, 2023	Notes from meeting prepared by District.	November 27, 2023
3.	The District is required to provide training to District staff that regularly communicate with or provides services and supports to private schools within the District, including the special education personnel assigned to RCS regarding the consultation process with private school officials to include, at a minimum, all of the topics listed in Step No. 5, below.	January 15, 2024	Submission of proposed trainer and trainer's resume and proposed presentation for NMPED approval. Confirmation of the date of the training. Confirmation of attendees at the training and plan for addressing the provision of training to those staff not in attendance.	November 20, 2023 December 1, 2023 January 22, 2024

<p>4.</p>	<p>The District shall schedule a consultation meeting with RCS to discuss all topics described in Step 5 including the use of the private school proportionate share allocation to RCS to provide indirect and/or direct special education and related services to the identified students with disabilities at RCS, and to reimburse RCS for all appropriate services RCS has paid for with Stepping Stones or any other provider that should have been paid for with the private school proportionate share allocation.</p> <p>Any consultation meeting with RCS held after October 30, 2023 may satisfy this requirement such that all the topics described in Step 5 and this provision were included in that consultation.</p>	<p>December 1, 2023</p>	<p>Written affirmations signed by private school representatives attesting to their participation in the consultation and Notes from meeting prepared by District and signed by RCS staff.</p>	<p>December 8, 2023</p>
<p>5.</p>	<p>The District shall contact each private school located in the District and convene consultation meetings with representatives of the private school and representatives of parents of parentally-placed private school children with disabilities to discuss the following:</p> <ul style="list-style-type: none"> • The child find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process; • The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities, including the determination of how the 	<p>January 26, 2024</p>	<p>Written affirmations signed by private school representatives attesting to their participation in the consultation. Copies of detailed notes from the meeting summarizing the discussion amongst the parties.</p>	<p>February 2, 2024</p>

<p>proportionate share of those funds was calculated;</p> <ul style="list-style-type: none">• How the consultation process among representatives of the District, the private schools, and the parents of parentally-placed private school children will take place, including how the process will operate throughout the school year to ensure that parentally-placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;• How, where, and by whom special education and related services will be provided, including a discussion of types of services, including direct services and alternate service-delivery mechanisms, as well as how the services will be apportioned if funds are insufficient to serve all children; and how and when decisions regarding services will be made; and• How, if District representatives disagree with the views of the private school officials on the provision of services or the types of services provided directly or through a contract, the District will provide to the private school officials a written explanation of the reasons why the District chose not to adopt the recommendations of the private school officials. <p>Any private school consultation meetings that occurred after June 30, 2023 that included discussions regarding all of the above topics may satisfy this</p>			
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	provision such that documentation can be provided for those prior meetings.			
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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/ Wallace Calder

Wallace J. Calder, Esq.

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, Special Education Division