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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
OFFICE OF SPECIAL EDUCATION
Complaint Resolution Report
Gallup-McKinley County Schools
Case No. 2425-15
December 13, 2024**

This Report does require corrective action. See pages 15-17.

On October 16, 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 Local Education Agency at the request of the PED's independent complaint investigator;
- review of the District's compliance with federal IDEA regulations and state NMAC rules;

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.

- Completion of a questionnaire by the ELA Teacher;
- interviews with the Case Manager, ELA Teacher, Parent and Advocate; 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 allegations related to professional or ethical misconduct by an licensed educator or related service provider, or allegations related to the Americans with Disabilities Act or Section 504 of the Rehabilitation Act are not within the jurisdiction of this complaint investigation and, as a result, were not investigated. For these reasons, the Complaint Investigator did not investigate the following issues raised by the complainant: Issues pertaining to racism, retaliation or disparate treatment.

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 implement an IEP to allow Student to make educational progress in the general education curriculum, in violation of 34 C.F.R. §§ 300.321, 300.324; 300.501(b)(c)(1) and 6.31.2.11(B)(1) and 6.31.2.13(C) NMAC; specifically, whether the District,
 - a. Provided all accommodations required by the IEP during testing and academic instruction;
 - b. Provided appropriate reinforcement and encouragement for work completion and participation;
 - c. Failed to train Student in independent use of assistive technology and appropriate access; and
 - d. Failed to respond appropriately to negative behaviors as mandated by the IEP; and
2. Whether the Parents were denied meaningful parental participation in decisions involving the education of Student in violation of 34 C.F.R. § 300.321(a)(1); 34 C.F.R. § 300.501(b) and (c)(1) and 6.31.2.13(C) NMAC, when District personnel failed to communicate and/or respond to Parents' inquiries regarding Student's educational services; and
3. Whether the District's actions and/or omissions towards the Student resulted in a denial of free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC.

General Findings of Fact

1. Student, who is in the fourth grade during the 2024-2025 school year, has always attended the remote program with the District.
2. Student's school day begins at 10:15 a.m. Monday through Thursday and 11:30 a.m. on Friday. Synchronous classes end at 1:30 p.m. There is a 30 minute break between classes.
3. Student is twice exceptional, receiving both gifted services and special education services under the category of autism and other health impaired (OHI) because of social emotional and fine motor needs.
4. Student does not reside within the boundaries of the District but attends the virtual program which involves a mixture of online synchronous classes (Class Connects) and asynchronous offline lessons and activities.
5. Certified teachers provide the instruction for Class Connects and students are to attend all classes and teachers provide individual and group support. Class Connects are recorded so students may watch instruction if student is unable to attend class or needs a refresher on instructional materials. Parents and students may also contact teachers for assistance with coursework and other needs.
6. Last school year, Student's IEP team met on August 30, 2023, September 20, 2023, January 1, 2024 and May 10, 2024. The first three meetings were due to Parental requests, and amendments were made to the IEP during those meetings. Student's annual IEP was completed on May 10, 2024.
7. Student receives 30 minutes each of services weekly in gifted, SW and OT.
8. The May 10, 2024 IEP listed five goals, three special education goals and two gifted goals. The three special education goals were 1. social work to learn to use coping strategies to return or remain on task. 2. occupational therapy and 3. academic readiness goal to begin tasks with one prompt.
9. Progress notes on these goals have not yet been provided for the 2024-2025 school year. Teacher's reported progress on special education IEP goals.
10. Parent noted in the present levels of academic achievement and functional performance (PLAAFP) that she wanted to see Student build independence and focus on getting through sessions with less prompting and in the area of daily/independent living, it was noted that student required prompting to remain on task.
11. Student does not exhibit behavioral needs that impact self-learning or learning of others.
12. Progress notes from May 2024 indicated that Student's attention has improved greatly but coping skills were still an area to work on with Student. Ignoring unexpected behaviors and inappropriate comments with appropriate modeling has been a successful strategy with Student.
13. All fourth-grade students have classes in English/Language Arts (ELA), math, science, history and art. Students also have a self-guided course in music or international language.

14. Learning coaches, who are usually parents, provide support and ensure students are completing the required work to be successful in the program.
15. Student has difficulty sleeping and participation in morning classes is problematic for Student because it is difficult to wake Student. Previously, Student would often not attend morning Class Connects but this year, Student had attended the first Class Connects that begins at 10:15 a.m., arriving 15 minutes late at 10:30 a.m. Student is often 15 minutes late for the second class of the day. Student is not penalized for late arrivals but is expected to complete any work missed.
16. Student has two primary teachers. Both teachers are familiar with Student’s accommodations and needs. At the beginning of the 2024-2025 school year, Student’s case manager met with both teachers to review Student’s IEP including all accommodations.
17. Based on the the May 10, 2024 IEP, Student is to receive a number of academic accommodations and testing accommodations.
18. The academic accommodations include:

Individualized accommodations	Universal Accommodations
Allowed to turn off camera, not to exceed 15 minutes	Provide positive feedback on assignments
Allow ample processing time for questions and given directions	Allow frequent breaks when needed
Repetition of direction, rules and tasks	Reduced repetition of questioning on homework and quizzes
Use question frameworks of with two choices vs. “do you want” or “are you ready” questions	Use of study guides or worksheets for notetaking
Check for understanding and readiness with assignment expectations	Provide calendars, organizers, instructions and teacher notes
Classes will be provided with afternoon teaching opportunities	Prompted with verbal [Student Name]
Support frequent breaks with verbal check-in and prompting to ask for a break as needed	Recording of classes will be available to student when afternoon scheduling is not feasible
No penalized for spelling	No timers on assessments
Allow fidgets	
Multiple choice questions for spelling tests	
Allow Calculator or mathematics tools to complete in classroom assignments	

Chunk assignments with paced due dates; allowing feedback for smaller portions to support [Student's] independence to tasks
Provide recordings of sessions for students
Allow extra time to turn in assignments
[Student] will be graded on what assignments are completed

19. Student's test accommodations include:

Individualized Testing Accommodations	Universal Testing Accommodations
<p>ELA TTS English (Summative only) (Student can receive a text to speech accommodation on in person test)</p> <p>Mathematics TTS English (Excludes Formative) (Student can receive a text to speech accommodation during in person summative testing). These accommodations were for the in person NM-MSSA testing which Student did not complete.</p>	No timers on assessments
1:1 for face to face testing:	Additional Time Between Sessions
If in person, allow [Student] to view the testing location prior to the assessment as early as possible based on scheduling by the District	Extended administration time
If in person, allow [Student] to be introduced to proctor prior to assessment once testing proctor is known by the District	Multiple and frequent breaks
Allow calculator or mathematics tools	Test in location with minimal distraction
Student does not complete in person tests, all assessments are completed online.	Visual, verbal or tactile reminders to stay on task

20. The May 10, 2024 IEP noted that universal accommodations are supports provided to all students that attend the virtual program but emphasized the awareness of the need and importance of those accommodations for Student.

21. Under testing accommodations, the IEP noted that “All testing tools and accommodations will be provided based on the testing parameters of the universal testing environment. Not all tests allow these tools to be implemented, they will be allowed based on the parameters and what is being measured and tested.”
22. For example, if reading fluency is being measured, the test would be timed.
23. Parent asserted that Student is not receiving the accommodations listed on the IEP. Specifically, Student is not receiving the multiple-choice questions for spelling tests. She also noted that Student rarely turns on the camera and Student’s teachers do not ascertain Student’s understanding or readiness and do not use prompting to ensure focus and participation.
24. The District noted that spelling is not graded for Student. Although spelling tests are a part of the online learning system (OLS), spelling is not part of the program implemented within the District. The OLS is a learning program developed by an outside entity that is used by the District.
25. The District has not provided multiple choice questions for spelling.
26. The District noted that the majority of the time, Student does not have the camera on but was participating with the class and completing required work successfully.
27. Student earned “As” in all subjects, is in the highest academic group in fourth grade and was making progress on all IEP goals. Student is timely completing all coursework with minimal assistance.
28. Student’s classes are in the morning, but Student could participate in the class asynchronously in the afternoon without penalty. Student also could receive assistance from teachers if Student struggled with coursework.
29. Speech to text and text to speech are not accommodations included in Student’s IEP, but the case manager and teachers have attempted to assist Parent with the use of this feature with step-by-step instructions and also referred her to technical support for additional assistance.
30. Parent reported that she is still unable to access these programs and technical assistance is not helpful.
31. Parent reported that Student needs extensive assistance from her to stay focused and complete work.
32. District staff were not aware that Student needed extensive assistance.
33. Teachers reported that Student is able to complete tasks and participate in classes when called on.
34. One of Student’s accommodations is to be allowed to turn off camera for 15 minutes, not to exceed 15 minutes. Teachers have not insisted or prompted Student to turn on camera after 15 minutes but allow Student or Parent to decide when Student turns on the camera. Student rarely turns on the camera but does participate in the class instruction.

35. Student has not been individually muted during Class Connects nor has Student been ignored while the remainder of the class participates. When Student's hand is raised, teachers call on Student.
36. Regular encouragement for students is provided by the teachers throughout the class period as a standard part of the classroom structure and routine.
37. All fourth-grade students are assessed on multiple measurements including the Interim Measure of Student Success and Achievement (iMSSA) three times a year; ISIP assessments monthly beginning in October; New Mexico Measures of Student Success and Achievement (NM-MSSA), an annual in person test. Student completes all but the NM-MSSA.
38. Student is not timed on tests and completes assessments within the time range of classmates.
39. During the ISIP test on October 7, 2024, Student was informed the week before that the ISIP would be the following week. The test is not timed for any student. The October 7, 2024 ISIP was the first administration of this monthly test during the 2024-2025 school year.
40. Student received the following scores on the October 7, 2024 ISIP: Vocabulary -472 advanced; Word Analysis- 476 advanced; Reading Comprehension – 505 advanced; Test Fluency - 43 advanced.
41. Parent asserted Student was lied to when Student was told the test was practice. All students were informed that this test was used to determine Student's skills and growth. Student may have believed the test was a "practice" but there is no indication that any of the students were told the test was a "practice."
42. Student completed the test without any difficulty and was pleased with the performance. Parent, who usually is present when Student completes assessment, was not present at that assessment.
43. Both teachers provide study guides, reminders and notes of upcoming tasks to all students. Instructions are broken down into steps by the teachers and Student can receive teacher's notes.
44. Student has a 30-minute break between classes but can also take a break, as needed, during class. Although state testing does not allow calculators, Student is allowed the use of a calculator.
45. Parent did not raise objections to IEP goals or services, only that accommodations are not being provided and District personnel would not communicate with her in a timely manner.
46. Many of the accommodations listed on Student's IEP are provided to all fourth-grade students.
47. As Student's synchronous participation in Class Connects has increased, some inappropriate behaviors have appeared. There have been a few incidents with open chat and teasing of other students. When this happens, the teacher promptly addresses it and informs Parent.

Open chat has been eliminated for all students. Teachers do not ignore negative behavior but address it promptly and keep Parent informed of any incidents.

48. When behavior is attention seeking, with the advice and consent of Parent, teachers have ignored this type of behavior.
49. Parent's primary complaint was lack of communication with the staff. Throughout this and last school year, Parent has repeatedly contacted various staff members about Student's needs, accommodations and services. To address Parent's concerns, the case manager observed Student in class and continues to meet with Student's teachers, as needed, about Student's needs and accommodations.
50. A staff member responded to each of Parent's communication as soon as possible, usually within one day. Parent included multiple staff members on emails, but not all recipients would respond to all emails.
51. An IEP meeting was scheduled for September 10, 2024, but was cancelled. A meeting was held on October 4, 2024 to discuss accommodations with a follow up IEP meeting scheduled for October 21, 2024. That meeting was cancelled when the complaint was filed.

Discussion and Conclusions of Law

Issue No. 1

Whether the District failed to implement an IEP to allow Student to make educational progress in the general education curriculum, in violation of 34 C.F.R. §§ 300.321, 300.324; 300.501(b)(c)(1) and 6.31.2.11(B)(1) and 6.31.2.13(C) NMAC; specifically, whether the District,

- a. **Provided all accommodations required by the IEP during testing and academic instruction;**
- b. **Provided appropriate reinforcement and encouragement for work completion and participation;**
- c. **Failed to train Student in independent use of assistive technology and appropriate access; and**
- d. **Failed to respond appropriately to negative behaviors as mandated by the IEP.**

The IDEA is meant to ensure that all children with disabilities have available to them a free appropriate public education (FAPE) designed to meet their unique needs. FAPE is administered through an IEP developed by the IEP team and implemented by the district. The IEP must be "reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances." *Endrew F. V. Douglas County School District RE-1*, 137 S.Ct. 988, 999 (2017); see also 34 C.F.R. §§ 300.320 to 300.324. The primary function of an IEP is to develop a plan to achieve academic and functional advancement. *Endrew F.*, 137 S.Ct. at 999. A student's unique needs are more than just mastery of academic subjects, but may include social, health,

emotional, physical, and vocational needs of eligible students. *County of San Diego v. California Special Education Hearing Office*, 93 F.3d 1458, 1467 (9th Cir. 1996). It is the responsibility of the IEP team to determine the special education and related services that a student needs to receive FAPE. *Andrew F.*, 137 S.Ct. at 1001.

The IEP must be implemented as written, including all required components. See 6.31.2.11(B) and 6.31.2.11 (F)(1)(a) NMAC and 34 C.F.R. § 300.323(c). An IEP must include:

1. A statement of the child's present levels of academic achievement.
2. A statement of measurable annual goals, including academic and functional goals.
3. A description of how the child's progress toward meeting the annual goals will be measured.
4. A statement of the special education and related services and supplementary aids and services to be provided to the child.
5. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the extracurricular or other nonacademic activities.
6. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on statewide and districtwide assessments.
7. The projected date for the beginning of the services and modifications along with the anticipated frequency, location, and duration of those services and modifications.
8. Appropriate, measurable postsecondary goals and the services needed to reach those goals. Not later than one year before the child reaches the age of majority under state law, a statement that the child has been informed of the child's rights under the IDEA with regard to the rights of the child in reaching the age of majority. 34 C.F.R. § 300.320.

a. Provided all accommodations required by the IEP during testing and academic instruction;

Student has an extensive list of academic and testing accommodations listed on the IEP. Many of the accommodations are universal supports provided to all Students. While it is not required to list universal supports on the individualized IEP for a Student, the IEP specifically noted the importance of the universal accommodations for Student.

All accommodations listed on the IEP must be provided to Student. Accommodations that are included in the IEP must be provided as written. If an accommodation is no longer appropriate, then the IEP should be amended to remove or modify the accommodation.

Parent asserts that the accommodations on the IEP are not provided by the District. Parent's specific complaints were no multiple-choice options on spelling and lack of communication. The evidence does not support Parent's claim. With the exception of the use of the camera and multiple choice for spelling tests, the academic and testing accommodations are provided to Student. The testing accommodations for the October 7, 2024 ISIP were provided. The IEP does not require that Parent be notified and present when Student completes assessments. The assessments are not timed. All students were informed that this test was used to determine Student's skills and growth. Parent's concern that Student was lied to is not supported by the record.

The use of the camera is limited to 15 minutes, but the Teachers agreed that Student rarely turns on the camera. Student is not encouraged to turn on the camera after 15 minutes which is not consistent with the accommodation described in the IEP. The District's failure to implement this accommodation was a violation. Also, the accommodation for "Multiple choice questions for spelling tests" is not implemented. District staff indicated that spelling is not part of the required curriculum and is not graded for Student but there is a spelling component on the OLS. If this accommodation is not appropriate for Student, then it should be removed from the IEP. Since the accommodation is part of the IEP, the District is in violation for not providing multiple choice spelling questions

The extensive accommodations, including universal supports listed on Student's IEP, make it difficult to implement all of Student's needed accommodations with fidelity. Universal supports should not be included unless they are needed by Student to receive FAPE. In addition, the ambiguity and lack of clarity with the accommodations combined with the limitations of the OLS and Class Connects requirements can make implementation of accommodations a challenge and may explain part of Parent's concerns.

Because of these potential issues, District and Parent appear to have different understandings of Student's accommodations and how they are to be implemented. For example, Student's IEP provides that "Classes will be provided with afternoon teaching opportunities" and "Recordings of classes will be available to student when afternoon scheduling is not feasible." The Class Connects schedule does not provide for afternoon classes and the recordings are asynchronous so the Teacher is not available if Student needs assistance. The District interprets those two accommodations as being implemented because Student can watch recorded classes after the scheduled time. However, Parent asserts that Student needs afternoon classes because of Student's issues with sleeping and it is difficult to get Student up to attend morning classes. Parent asserts the District is not providing the accommodation if recorded classes are asynchronous.

Another example of an ambiguous accommodation, is "Prompted with verbal [Student name] cue." This was a universal accommodation for all students. This accommodation does not indicate how often Student is to be cued or how it will be determined if Student is off task. Since Student is not on camera for the majority of the class, it may be difficult to determine if Student remains focused or needs to be cued. Parent reported she needs to be with Student and keep Student focused at all times. Parent has not shared that information with District personnel. District staff reports that Student participates and is able to complete work successfully with minimal assistance and were, thus, not aware of Parent's claim that Student needs constant supervision and support to focus and complete work. Although the District is responsible for ensuring that the IEP is implemented, the lack of effective communication between Parent and District impacts the District's ability to implement the accommodations. The District must take appropriate action to ensure that accommodations are implemented.

As to Issue 1a, the District is cited, corrective action is required.

b. Provided appropriate reinforcement and encouragement for work completion and participation;

Reinforcement and encouragement are part of any teacher's practices in a classroom. These are not specific accommodations on Student's IEP, but the record indicates that Student receives appropriate feedback, praise and encouragement for successful work performance. The teachers note that Student has been attending the Class Connects consistently this year and acknowledge Student's attendance and participation. Following the October 7, 2024 ISIP assessment, Student was congratulated for the results on the October 7, 2024 ISIP test and Student expressed a sense of pride. There was no violation of Part B of IDEA.

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

c. Failed to train Student in independent use of assistive technology and appropriate access;

The May 10, 2024 IEP does not list assistive technology as a need or as an accommodation on the IEP. Parent requested speech to text and text to speech services for Student. These programs are part of the OLS system and can be accessed by any Student. The Case Manager provided step by step instructions to Parent on how to access speech to text and text to speech. She also referred Parent to technical assistance for additional support. Parent reported that when she contacted technical assistance, they were not helpful. While the District should take steps to ensure all students have access to programs and other resources that will benefit them, this was not an implementation failure of Student's IEP. Student was successful without the speech to text and text to speech programs. There was no violation of Part B of IDEA.

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

d. Failed to respond appropriately to negative behaviors as mandated by the IEP;

Behavior was not listed as an area of need on the IEP. It was noted on the IEP that ignoring unexpected behaviors and inappropriate comments with appropriate modeling has been a successful strategy with Student. Since Student's class attendance has improved this year, Student has participated more with classmates. Some inappropriate behaviors were exhibited by Student such as bullying of another student. This was addressed immediately by the teacher and information about the behavior and response was shared with the Parent. When appropriate, unexpected behaviors and comments are ignored and the new system for chats has eliminated many concerns with inappropriate comments. Student's behaviors are not impacting learning. There was no violation of IDEA.

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

Issue No. 2

Whether the Parents were denied meaningful parental participation in decisions involving the education of Student in violation of 34 C.F.R. § 300.321(a)(1); 34 C.F.R. § 300.501(b) and (c)(1) and 6.31.2.13(C) NMAC, when District personnel failed to communicate and/or respond to Parents' inquiries regarding Student's educational services;

Parents are mandatory members of the IEP team. 34 C.F.R. § 300.321(a)(1); 6.31.2.13(C) NMAC. Districts must provide parents with meaningful parental participation in any decisions involving the identification, evaluation and educational placement of the student and provision of FAPE.

34 C.F.R. § 300.501(b). Districts must make reasonable efforts to have parents participate in IEP meetings. 34 C.F.R. § 300.322(d).

Student's IEP team met four times during the last school year. At three of the meetings, amendments were made to the IEP and the fourth meeting was the annual IEP. This year, an IEP meeting was planned for September which was cancelled by Parent. A meeting was then held October 4, 2024 to discuss Parent's concerns. Following that meeting an IEP meeting was planned for October 21, 2024; this IEP meeting was cancelled when the state complaint was filed.

Parent has sent multiple emails and made multiple telephone calls to various District personnel. The emails are to multiple recipients. District personnel have always timely responded to Parent's inquiries, but each recipient of the email has not directly responded to Parent. Changes have been made to the IEP and educational program for this Student after contact with Parent. Parent's biggest concern is lack of communication and follow through with District personnel. Part of this communication breakdown may be a result of the ambiguous and unclear expectations for accommodations and services on the IEP. See Issue 1a. Parent has sent multiple emails with multiple recipients but asserts she does not receive complete responses from each recipient. The District should develop a plan on how to communicate with Parent, including who will be responding to inquiries from Parent. This plan may prevent misunderstandings and allay Parent's belief she is being ignored. Decisions about educational services should be made at an IEP team meeting. Multiple IEP meetings were convened last year and multiple meetings were scheduled this year, although later cancelled. Parent was provided meaningful parental participation. There was no violation.

As to Issue 2, the District is not cited.

Issue No. 3

Whether the District's actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.9 NMAC.

Students who are eligible for special education services are entitled to a free appropriate public education (FAPE). 34 C.F.R. § 300.101; 6.31.2.8 NMAC. A District is obligated to provide a FAPE to students 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 IDEA does not guarantee any particular level of education or outcome. 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).

Parent does not assert that the IEP is inappropriate, rather that the District failed to implement the IEP, particularly Student’s accommodations, and failed to communicate with Parent about Student’s educational program. Student earned straight As, preformed at the top of the fourth grade class and made progress on all IEP goals. This IEP was reasonably calculated to allow Student to make progress. There was no substantive denial of FAPE. Procedurally, the District failed to implement all accommodations but this did not result in the loss of educational opportunity or deprived student of educational benefit. Parent was provided meaningful parental participation. The procedural violations did not rise to the level of a denial of FAPE.

As to Issue No. 3, the District is not cited.

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. §§ 300.321, 300.324; 300.501(b)(c)(1) and 6.31.2.11(B)(1) and 6.31.2.13(c) NMAC	The District failed to implement an IEP to allow Student to make educational progress in the general education curriculum, specifically, the District failed to provide all accommodations required by the IEP during testing and academic instruction

Required Actions and Deadlines

By December 20, 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 motor the District’s progress with the Corrective Action Plan and to be its point of contact about this complaint from here forward:

Ms. Yaling Hedrick
Corrective Action Plan Monitor

Office of Special Education
 New Mexico Public Education Department
 300 Don Gaspar Avenue
 Santa Fe, NM 87501
 Telephone: (505) 795-2571
Yaling.Hedrick@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 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 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 February 28, 2025 and reported to the OSE no later than March 7, 2025. 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).	December 20, 2024	Written Assurance	December 20, 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>
2.	<p>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.</p>	<p>January 10, 2025</p>	<p>Notes</p>	<p>January 17, 2025</p>
3.	<p>The District shall convene a facilitated IEP meeting for Student. The facilitated IEP meeting shall address, at minimum:</p> <ul style="list-style-type: none"> • Appropriate and needed accommodations to allow Student to make educational progress; • A communication plan to ensure appropriate timely communication between Parent and District, <p>PED OSE will assign and fund a facilitator for this IEP meeting.</p> <p>The FIEP meeting shall be held virtually on a date and time that is convenient for the parent. The parent will be provided with a copy</p>	<p>January 17, 2025</p>	<p>1. Invitation to FIEP meeting; 2. Agenda for FIEP meeting; 3. IEP; and 4. Prior Written Notice(s)</p>	<p>January 24, 2025</p>

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>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, any related services providers.</p>			
4.	<p>The District shall arrange to provide training to online program staff serving elementary students enrolled in the District (including special education teachers, administrators, diagnosticians and related service providers). The training shall be provided by a person with expertise in special education who is approved by NMPED. The trainer may be an employee of the District.</p> <p>The training shall cover the following special education and related topics.</p> <ul style="list-style-type: none"> • Determination and implementation of needed accommodations individualized to a particular student, including testing accommodations. 	February 28, 2025	<p>Submission of proposed trainer and trainer’s resume and proposed presentation for NMPED approval</p> <p>Confirmation of the date of the training</p> <p>Confirmation of attendees at the training and plan for addressing the provision of training to those staff not in attendance.</p>	<p>January 15, 2025</p> <p>February 3, 2025</p> <p>March 7, 2025</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 K. Bennett

Michele K. Bennett

Complaint Investigator

Reviewed by:

/s/ Miguel Lozano

Miguel Lozano, Esq.

Chief Counsel, Office of Special Education

Reviewed and approved by:

DocuSigned by:
Margaret Cage

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Margaret Cage, Ed.D.

Deputy Secretary, Office of Special Education