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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT  
OFFICE OF SPECIAL EDUCATION  
Complaint Resolution Report  
The Montessori Elementary and Middle School  
Case No. 2425-25  
January 21, 2025**

**This Report requires corrective action. See pages 14-15.**

On November 22, 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.<sup>1</sup> 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 Charter School'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 Charter School's compliance with federal IDEA regulations and state NMAC rules;

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<sup>1</sup> 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.

- interviews with the Parent, Special Education Director, General Education Teacher, Special Education Teacher, Executive Director, and Educational Assistant;
- at the suggestion of both the Parent and Charter administration, a parent of another student was interviewed; 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 a 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 that occurred before November 22, 2023 and issues pertaining to professional misconduct. Many of the allegations included in the complaint were concerning actions and behaviors of one or more staff members. Actions of staff members are generally, personnel issues and do not affect the requirements under IDEA unless those actions by staff members deny or infringe on a Student's receipt of FAPE. After a thorough investigation, the alleged actions by staff members were personnel matters that did not impact on Student's receipt of FAPE.

### **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 Charter School failed to develop and implement an IEP that would provide Student a free appropriate public education (FAPE) 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 Charter School,
  - a. Investigated and addressed bullying incidents against Student that may have impeded Student's ability to learn;
  - b. Considered the need for additional supports and services or alternative placement when Student's progress declined and Student exhibited physical manifestations and emotional reactions at school; and
  - c. Provided meaningful parental participation in decisions regarding the educational program for Student;

2. Whether the Charter School's actions and/or omissions towards the named Students resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC.

### **General Findings of Fact**

#### **Background Information**

1. Student was eight years old, in second grade at the Charter School during the 2023-2024 school year. Student was eligible for special education services under the category of autism. Student had attended the Charter School since kindergarten.
2. During the 2023-2024 school year, Student was injured through actions of classmates. Two incidents occurred in August and September, 2023. The third incident occurred on May 21, 2024 when Student was scratched by one of the students involved in the earlier incidents. There was eight months between the last two incidents.
3. All three incidents were brought to the attention of Charter School administration. The incidents were investigated and addressed by the Charter School staff. Two of the incidents occurred outside the one-year time frame for the investigation, but are included here to determine if there was a pattern of behavior. Two students were involved in one or more of the three incidents. The behavior was not severe, pervasive or within a short time frame. The Charter School reported they followed the its policy with respect to the May 21, 2024 incident.
4. Student had the same general education teacher (GE Teacher), special education teacher (SE Teacher) and speech language pathologist (SLP) in first and second grade.
5. There were concerns raised by the Parents about the GE Teacher who worked with Student. They reported that the GE Teacher would yell at the students and had other difficulties with maintaining control in the classroom. The Charter School agreed that the GE Teacher had some difficulties during the 2023-2024 school year and another parent corroborated that the yelling was occurring in the classroom. While Student was in the GE Teacher's classroom, Student started to exhibit tics which were diagnosed in January, 2025. Although Student had anxiety and tics, Student continued to make progress, albeit limited progress, on IEP goals.
6. The SE Teacher and SLP continued to work with Student at the start of the 2024-2025 school year.
7. Parents were concerned when Student came home and told them about Student's interactions with the SE Teacher and SLP and reported their concerns to the Charter School administration.
8. One incident, according to Parents, involved the SE Teacher yelling at Student after Student was asked to carry two laptops and dropped one on Student's toe. Student yelled "ouch" and SE Teacher responded "stop it" and confronted Student.

9. The SE Teacher indicated that Student did drop a laptop and the SE Teacher asked and Student reported that Student was not hurt. The SE Teacher and Student worked on the computer after the incident before going outside for recess. According to the SE Teacher, Student acted fine and played with other students at recess after Student dropped the laptop.
10. Another incident reported by Parents involved a gift given to the SE Teacher at the end of the 2023-2024 school year. The gift was in a box with a number of items, such as hand sanitizer, post it notes, etc. When school started in the Fall, the gift was on the desk and the SE Teacher pushed the box into the garbage without any explanation to the Student. Student was very upset for quite some time.
11. The SE Teacher reported that the box was kept in storage over the summer and when she opened in the Fall to use the items, she discovered that mouse droppings were all over the box. When she saw the mice droppings, she immediately threw the box and its contents in the garbage but did not explain anything to the students that were present. The SE Teacher was not aware that Student was upset until this complaint was filed.
12. Another incident involved Student walking away from the SE Teacher while the SE Teacher was still talking to Student. Student did not understand that the SE Teacher was still talking and SE Teacher berated Student because of rude behavior. The SE Teacher denied this happened.
13. Following all of these incidents, the Parents requested a meeting with administration to discuss the actions of the SE Teacher. At this meeting on October 18, 2024, the SLP and Special Education Director attended but the SE Teacher was not present. During the meeting, the SLP, who stated that Parents consented to her attendance, defended the actions of the SE Teacher, even though she was not present during the incidents. The SLP also raised issues related to Student wearing makeup at school at this meeting.
14. Parents requested a new special education case manager which was arranged for Student.
15. Parents also had concerns about the SLP, especially with the comments about Student's wearing makeup. The SLP mentioned Student's use of makeup and that other students were commenting about Student's wearing makeup multiple times. The Parents discussed makeup with the Special Education Director who expressed no concerns with Student's attire.
16. Parents then requested that Student no longer work with SLP. SLP was the only qualified person available to work with Student. A prior written notice (PWN) was completed to document that Parents understood and agreed that Student would no longer receive speech services since there was no other available SLP.
17. Parents requested that Student be assigned to a classroom with friends. This was also arranged for Student.

**October 3, 2023 IEP and April 2, 2024 reevaluation IEP**

18. Present Levels of Academic Achievement and Functional Performance (PLAAFP) from the annual October 3, 2024 IEP indicated that Student had difficulty with retention of information, independence and direct communication with classmates and ancillary staff. Student preferred interacting with adults instead of peers and had difficulty with self-regulation at times. Student had difficulty recognizing and responding appropriately to social cues. Student did not exhibit behaviors requiring interventions.
19. Student's reading performance was below that of peers, and also had fine motor difficulties. Math was identified as a strength area for Student.
20. There were two reading goals on the October 3, 2023 IEP. The goals were to decode CVC and CVCC words and read passages and answer inferential questions. On the IEP under ELA progress towards goals, it was noted that Student was not able to isolate and pronounce the initial, medial and final sounds in leveled CVC words. "She is still working on initial phonemic skills and identifying 26/26 letters of the alphabet, so GE and SE Teachers are suggesting that we continue with a goal of identifying 26/26 letters of the alphabet and identifying correct letter sounds before we go on to CVC words."
21. The SE Teacher noted that Student has demonstrated "such great improvement with her sounds and blending that [Student] is reading simple words and sentences. [Student] read 19 out of 20 words and 3 simple sentence needing help with one word (grand).
22. Student had a math goal to solve 3-digit addition and subtraction problems. Student had mastered the math goal and a new goal was developed.
23. Student had four occupational therapy (OT) goals which included: Catching a ball, Tracing basic shapes and lines and cutting; Identifying and writing upper- and lower-case letters and Identifying emotions.
24. Student also had a speech goal to use strategies to self-advocate and express herself with peers.
25. Student received 210 minutes of special education services per week under a push in, pull out model.
26. Student had a number of accommodations to help with sensory needs, and reduce distractions.
27. At the October 3, 2023 IEP meeting, which lasted approximately two hours, the Parents requested a dyslexia evaluation which is noted on the IEP. The Charter School did not issue a PWN denying the request for an evaluation but indicated to the Parents that they could not complete a dyslexia evaluation.
28. The Charter School staff reported to the Investigator that Student was receiving dyslexia instruction and there was no need for a dyslexia assessment but this was not shared with Parents nor included in a PWN.

29. The Parents had an autism evaluation completed on November 22, 2023 at the University of New Mexico Center for Development and Disability (UNMCDD). The report from that evaluation was provided to the Charter School.
30. The summary from the UNMCDD report noted that Student was average in thinking and learning skills (cognitive) and exhibited appropriate communication skills but Student had difficulty when using language in social settings. Student did not exhibit normal play, social relationships and emotions. Student had delays in daily living skills compared to peers and had anxiety.
31. During the spring semester, Parents expressed concerns to Charter School administration that the GE Teacher yelled at the students and increased anxiety in Student that manifested in transient tics. On January 25, 2024, the Parents provided a diagnosis of transient tics to the Charter School.
32. A review of existing evaluation data (REED) was completed on April 2, 2024 when it was determined that no further evaluations were needed. The Charter School had access to the evaluation completed by UNMCDD. A summary of that report was included on the April 2, 2024 PLAAFP. A reevaluation IEP meeting was held that same day and the IEP team discussed tics and student's anxiety.
33. The Charter School characterized this meeting as the annual IEP meeting. The Parents were not aware that this was the annual IEP.
34. Results from Star Renaissance testing and IStation testing were included as part of the PLAAFP along with all the information from the October 3, 2023 IEP.
35. It was noted again in the April 2, 2024 IEP, similar to the October 3, 2023 IEP, that Student was working on identifying all of the letters of the alphabet and their correct phonemes. Student was trying to sound out beginning sounds independently. Student was "starting to show an understanding of phonemic awareness."
36. Elsewhere in the April 2, 2024 IEP, it stated that Student is able to read and decode words and simple sentences with familiar words.
37. The IEP goals on the April 2, 2024 IEP did not change but were continued from the October 3, 2023 IEP. A social work goal was added to assist Student with asking for help. Social work services were not included on the IEP.
38. The IEP indicated a request from parents to note presence of transient tics and note if impacted learning. The UNMCDD report noted anxiety and suggested therapeutic intervention to address anxiety.
39. The IEP did not indicate a plan to address the tics and Student's anxiety nor were those issues mentioned in the PWN.
40. An IEP meeting was not held in the fall of the 2024-2025 school year while Student attended the Charter School.

41. During the course of the investigation, both the Charter School and the Parents encouraged the investigator to interview another parent at the school regarding the 2024-2025 school year. Although this parent's child was not the subject of this investigation, the two students had similar needs and some of the same issues with classroom environment and Student's IEPs. This parent corroborated some of Parent's allegations in this complaint.
42. Student was disenrolled from Charter School prior to the filing of this complaint. Student has been enrolled in another school and the Parents indicated that they are pleased with Student's progress at the new school. Parents have indicated that they do not intend to reenroll Student at the Charter School.

### **Discussion and Conclusions of Law**

#### **Issue No. 1**

**Whether the Charter School failed to develop and implement an IEP that would provide Student a free appropriate public education (FAPE) 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 Charter School,**

- a. **Investigated and addressed bullying incidents against Student that may have impeded Student's ability to learn;**
- b. **Considered the need for additional supports and services or alternative placement when Student's progress declined and Student exhibited physical manifestations and emotional reactions at school; and**
- c. **Provided meaningful parental participation in decisions regarding the educational program for Student;**

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." *Andrew 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. *Andrew 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 non-disabled 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.
9. 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.

IEPs must be reviewed at least annually. This review must determine whether goals are being achieved and revise the IEP, as needed, to address lack of progress, results of any reevaluation, and student's needs. 20 U.S.C. 1414 (d)(4)(A) through 20 U.S.C. 1414 (d)(4)(B). 34 C.F.R. § 300.324 (b). When a student is not making the expected progress, the IEP team should reconvene and revise the IEP as necessary to ensure student is receiving FAPE. *Questions and Answers on Andrew F. v. Douglas County Schools District RE-1*, 71 IDELR 68 (EDU 2017).

The present levels of academic achievement and functional performance (PLAAFP) should be all-encompassing to provide the baseline that outlines all of a student's needs including academic and non-academic. 34 C.F.R. § 300.324 (a). The PLAAFP should describe student's skills in specific measurable terms. Test scores are appropriate but should include individual analysis of those test scores. *O'Toole v. Olathe District Schools Unified School District. No. 233*, 144 F.3d 692 (10th Cir. 1998). The information from the PLAAFP is used to develop appropriate goals for the student. An IEP, including goals, must be based on a student's unique needs. *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 102 S.Ct. 3034, 458 U.S. 176 (U.S. 1982); and *Andrew F. v. Douglas County School District RE-1*, 137 S.Ct. 988, 580 U.S. 386 (U.S. 2017).



Where goals are inappropriate in light of the student's abilities or are identical to goals from prior IEPs, a court may find that they are an indication that the student has not been offered FAPE or is not making progress.

A prior written notice (PWN) must be sent before the public agency proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of FAPE. 34 C.F.R. § 300.305 (a). When a parent requests an evaluation, the public agency must respond with a PWN either accepting or denying the request within 15 days of the receipt of the request. 6.31.2.10(D)(3) and (4) NMAC. In addition, 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).

**a. Investigated and addressed bullying incidents against Student that may have impeded Student's ability to learn;**

Student was the victim in three incidents involving classmates. Two of the incidents are outside the one-year timeframe for investigations but were reviewed to determine if the actions constituted bullying. Bullying under Policy 316 for the Charter School defines bullying, in part as "any severe, pervasive or persistent act or conduct that targets a student or group." The policy includes student's fear of harm and detriment to health or substantial interference with a student's learning. The three incidents that occurred here were not severe, persistent or pervasive. The Student was harmed by peers but it did not have a substantial interference with learning to constitute bullying. The Charter School investigated and addressed those incidents. There was eight months between the last two incidents. Student had anxiety and tics before the incident in May so it cannot be established that the incidents were the impetus of Student's tics nor did the incidents substantially interfere with Student's learning.

There were also concerns raised about the actions of the teacher in the classroom. Similarly, there is no evidence that Student was bullied by the teacher. Student continued to make progress on IEP goals, albeit limited progress, throughout the school year so it cannot be determined that the GE Teacher's actions or inactions substantially interfered with Student's learning.

**As to Issue No. 1a, the Charter is not cited.**

**b. Considered the need for additional supports and services or alternative placement when Student's progress declined and Student exhibited physical manifestations and emotional reactions at school;**

The Charter School knew, following receipt of the UNMCDD report in November, 2023, that Student had anxiety. In addition, the Parents provided Charter School with a letter about Student's transient tics. Neither the October 3, 2023 IEP or the April 2, 2024 reevaluation IEP discussed a plan to address Student's anxiety or tics. All interviewed agreed that Student's anxiety was discussed at the April 2, 2024 IEP but the IEP and PWN do not describe any plan for addressing Student's anxiety. This was a violation of Part B of IDEA.

The Parents requested a dyslexia evaluation during the October 3, 2023 IEP meeting. The request is noted on the IEP, but the Charter School's response is not noted on the IEP or on a PWN. Although the Charter School indicated to the investigator that they were providing dyslexia instruction and an assessment was not necessary, that information was not shared with the Parents or included on the IEP or PWN. This was a violation of Part B of IDEA and state rules.

More troubling is the inconsistent information on the IEP. At one point on the PLAAFP on the October 3, 2023 IEP, it states that Student cannot identify the alphabet and is beginning to understand phonemic awareness. Later, in the same document, it says that Student can read simple words and sentences. These two statements are contradictory. The SE Teacher and GE Teacher indicated that Student should have the same goal for the October 3, 2023 IEP because Student has not mastered identifying the letters and sounds in the alphabet, yet the goals were to read CVC and CVCC words and answer inferential questions. Progress notes indicated Student had been making progress on goals but Student was a second grader that was just beginning to understand phonemic awareness. Star Renaissance reading and Istation standard scores were included on the October 3, 2023 IEP with no explanation of those scores. Then in the April 2, 2024 IEP, which was considered the by the Charter School to be the annual IEP, all of the information from the October 3, 2023 IEP was included along with additional Istation and Star reading standard scores with no explanation of the results. There is also conflicting information in the PLAAFP on the April 2, 2024 IEP. The Charter School considered this as Student's annual IEP, yet it was not clear from reading the IEP what Student's present levels were or whether Student was making progress. During the course of the investigation, both the Charter School and the Parents encouraged the investigator to interview another parent at the school regarding the 2024-2025 school year. The two students had similar needs and some of the same issues found in Student's IEPs were noted in the IEP for the other student.

IDEA requires annual IEP meetings to review and revise the existing IEP to determine if the Student is achieving goals and revise the IEP if Student is not making progress. An annual IEP that continues with the same goals and services without consideration of why Student is exhibiting limited progress and whether additional services or supports are warranted may indicate a denial of FAPE. The conflicting information in the two IEPs indicated that Student was not making the expected progress on goals and the IEP team should have reconvened to determine if additional

services or supports were needed. The Charter School's failure to take this action was a violation of Part B of IDEA.

**As to Issue 1b, the Charter School is cited, Corrective Action is required.**

**c. Provided meaningful parental participation in decisions regarding the educational program for Student.**

Parents attended both IEP meetings for Student. They participated in discussions regarding the educational program for their Student. The IEP team discussed Student's anxiety and tics. Parents also had frequent contact with the administration and teachers and other staff at the Charter School about their concerns. When Parents requested a new case manager and SLP, the District granted the request. Parents were informed that Student would not receive speech services because there was no other available SLP. Parents agreed and a PWN was prepared noting that Parents declined speech services. Although Parents may not have agreed with actions of the Charter School regarding staff and the aggressive incidents towards their child, the Charter School informed the Parents about the incidents and that the incidents were being addressed. FERPA prevented the release of additional information. The Charter School failed to provide a PWN to Parents following the request for a dyslexia evaluation, which denied Parents of notice of the Charter School's decision regarding evaluation but overall, Parents were permitted to meaningfully participate in Student's educational decisions.

**As to Issue 1c. the Charter School is not cited.**

**2. Whether the Charter School's actions and/or omissions towards the named Students resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC.**

Students who are eligible for special education services are entitled to a free appropriate public education (FAPE). 34 C.F.R. § 300.101; 6.31.2.8 NMAC. A District is obligated to provide a FAPE to students 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).

There were procedural violations on this record as outlined in Issue 1b. These procedural violations did not rise to the level of a denial of FAPE. Parents were provided meaningful parental participation, there was no loss of education opportunity for Student nor was Student deprived of educational benefit.

Substantively, the IEP was reasonably calculated to allow Student to make progress in light of Student’s circumstances. Although Student’s progress was limited, Student was making consistent progress.

**As to Issue 2, the Charter School is not cited.**

**Summary of Citations**

<b>IDEA/State Rule Provisions Violated</b>	<b>Description of Violation</b>
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 Charter School failed to develop and implement an IEP that would provide Student a free appropriate public education (FAPE) to allow Student to make educational progress in the general education curriculum, specifically the Charter School failed to consider the need for additional supports and services or alternative placement when Student’s progress declined and Student exhibited physical manifestations and emotional reactions at school.

**Required Actions and Deadlines**

**By January 31, 2025**, the Charter School’s Special Education Director must assure the OSE in writing that the Charter School will implement the provisions of this Corrective Action Plan (CAP). The OSE requests that the Charter School submit all documentation of the completed corrective actions to the individual below, who is assigned to monitor the Charter School’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](mailto: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 Charter School 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 March 28, 2025 and reported to the OSE no later than April 4, 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**

<b>Step No.</b>	<b><u>Actions Required by Charter</u></b>	<b><u>Complete Actions By</u></b>	<b><u>Documents Required to be Submitted to PED OSE</u></b>	<b><u>Document Due Date</u></b>
1.	As described above, the Charter School 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).	<b>January 31, 2025</b>	Written Assurance	<b>January 31, 2024</b>
2.	The Charter School’s Special Education Director and the Executive Director shall meet with the PED OSE Education Administrator assigned to the Charter School and the PED OSE CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the Charter School plans to take to ensure that the violations are corrected and do not recur. The Charter School Special Education Director shall be responsible for arranging the meeting with OSE.	<b>February 7, 2025</b>	Notes	<b>February 14, 2025</b>
3.	The Charter School shall arrange to provide training to all special education staff (including special education teachers, administrators, diagnosticians and any service providers). The training shall be provided by a person with expertise in special education who is approved by NMPED and who was not involved in responding to this complaint.	<b>March 28, 2025</b>	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	<b>February 21, 2025</b>  <b>March 3, 2025</b>  <b>April 4, 2025</b>

<b>Step No.</b>	<b><u>Actions Required by Charter</u></b>	<b><u>Complete Actions By</u></b>	<b><u>Documents Required to be Submitted to PED OSE</u></b>	<b><u>Document Due Date</u></b>
	<p>The training shall cover the following special education and related topics.</p> <ul style="list-style-type: none"> <li>• The PLAAFP, what is it and what needs to be included in it;</li> <li>• Development of individualized, ambitious, measurable goals that address all of students' need;</li> <li>• Progress monitoring of students' progress on goals;</li> <li>• Conducting annual IEP meetings or reconvening the IEP team when Student is not making expected progress, including reviewing and revising goals;</li> <li>• PWNs, what are they, what should they include and when are they required to be provided; and</li> <li>• Meaningful parental participation including parent requests for evaluation and response requirements.</li> </ul>		<p>for those staff not in attendance.</p>	

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

Investigated by:

*/s/ Michele Bennett*

Michele K. Bennett

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