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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
OFFICE OF SPECIAL EDUCATION
Complaint Resolution Report
Gadsden Independent School District
Case No. 2425-29
February 11, 2025**

This Report requires corrective action. See pages 24-31.

On December 13, 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. Previously, on November 12, 2024 a Complaint (C2425-22) was filed by the same Complainant, the certified General Education Teacher (Teacher) on behalf of a student (Student 1) against the school district. An acknowledgement letter was issued on November 15, 2024. With the consent of both the Complainant and the District, the issues and information from Complaint 2425-22 were consolidated with the issues and information from Complaint 2425-29 and one report would be issued for both complaints under C2425-29. A total of seven students were named in the two complaints. The Student in the initial complaint will be identified as Student 1. The other six students will be identified by Student and number.

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.

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;
- review of the District's compliance with federal IDEA regulations and state NMAC rules;
- interviews with the Complainant;
- Long Term Substitute Teacher, Educational Assistant and Associate Superintendent for Special Services; 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.

Issues for Investigation

The following issues regarding alleged violations of the IDEA, its implementing regulations and State rules, are addressed in this report:

1. Whether the District failed to develop and implement an IEP that would provide Student 1 a free appropriate public education (FAPE) to allow Student 1 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. Evaluated Student 1 in all suspected areas of disability;
 - b. Considered the need for additional supports and services or alternative placement when Student 1 struggled with behavior and functional skills and was placed in a mental health facility;

- c. Provided special education and related services that were missed due to no qualified provider, and;
- d. Considered Student 1's needs instead of relying on passing grades when determining services and supports.

2. Whether the District failed to provide services to six named Students that would provide named Students a free appropriate public education (FAPE), 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 additional services, services and tools needed for Students to make progress;
- b. Provided all special education services minutes for named Students outlined in IEPs;
- c. Provided special education and related services to named Students by a qualified provider with appropriate certification.

3. Whether the District'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

Student 1.

Background Information

1. Student 1 was a second-grade student in District at the time of the filing of the complaint, eligible under the category of developmental disability (DD).
2. Student was referred for a comprehensive evaluation on January 26, 2023, because of "significant delays and failing to make expected progress in kindergarten." An IEP was developed and implemented on March 23, 2023.
3. Student 1's annual IEP meeting was held on April 3, 2024. It was noted on the IEP that Student 1 was not yet at grade level but was making limited progress. The present levels of academic achievement and functional performance (PLAAFP) indicated that Student could read and write a few sight words, add 1-digit numbers and was beginning to blend segments in consonant vowel consonant (CVC) words. Student 1 was also demonstrating improvement in gait, balance and hand-eye coordination. Student 1's strength was in math; Student 1 had significant difficulty in decoding or identifying words and age level writing tasks. Attendance was also a concern. Student 1's special education and related services were increased in this IEP to 6.5 hours per week with a 60-minute increase for math and reading.
4. The IEP noted recent and sudden mental health concerns. The IEP did not consider the need to address the mental health concerns and there was no follow-up related to those concerns.

Second Grade

5. An observation on August 18, 2024, at the start of second grade, reported Student 1 was unable to identify long or short vowel sounds in isolation or in words, had difficulty writing CVC words. Student 1 had extended time but would abandon tasks when overwhelmed. Student 1 had difficulty expressing ideas clearly, comments were unrelated, tone of voice was exaggerated and choppy and would not finish thoughts. Student 1 would yell, interrupt, and was “constantly disruptive.” Student 1 did not play well with others, was often rough with peers, hitting or biting other students and exhibited “evasive behavior.”
6. On September 19, 2024, the Classroom Teacher (Teacher) requested a staffing to discuss students behavior. During the staffing in September, notes indicated that the following skills were very low or not demonstrated: alphabetic sense; print awareness; letter knowledge; letter-sound correspondence; using phonic skills to decode; place value; rote counting by 2, 5, and 10 to 100; add and subtract within 100; independence; foundational skills; adaptive skills and executive functioning. It was also noted that Student 1 was frequently absent.
7. Teacher reported, during an interview, that Student 1 was oppositional, required constant sustained support, behavior regulation, constant redirection, and attention that prevented Teacher from assisting others. Student 1 would ignore staff and refused to change behavior.
8. As a result of the staffing on September 23, 2024, the nurse completed a home visit.
9. On October 17, 2024, Teacher contacted the Case Manager with questions about how best to work with Student 1. The Teacher followed up on October 19, 2024 and October 21, 2024 to ask about Student’s glasses. The District special education department provided supports to the special education teacher and general education teacher.
10. A staffing was scheduled for October 23, 2024 but was not held because of Student’s behaviors that day.
11. On October 23, 2024, Student 1 was referred to the nurse after Student 1 reported bugs on his head and all over the table. That same day, Student 1 would not use headphones because he reported there was a spider in his ear. Student 1 also reported voices telling him to do bad things and he talked to himself in gibberish.
12. Student 1 was transported to the hospital because of staff’s concern for Student 1’s mental health. The Guardian refused medical treatment. The following day the school held a staffing to determine a safety plan for Student 1’s return. Student returned to school on October 28, 2024.
13. The District sought consent for a social work (SW) evaluation to assess Student 1’s emotional state and the intersection of emotional state with disability and educational needs. Consent was received on November 14, 2024. The District had attempted to obtain consent earlier but did not receive signed forms; District staff finally went to the home to obtain consent. The SW evaluation was completed and an IEP meeting was scheduled.

December 17, 2024 IEP

14. Student 1's most recent IEP was completed on December 17, 2024. Areas of need included: reading comprehension, reading fluency, written language, math literacy, numeracy, self-regulation, self-help and social emotional.
15. The PLAAFP indicated that Student has scattered skills across content areas. Student 1 did best with hands-on activities and repetition; he could not write information but could share verbally. Student 1 was making incremental progress on goals. Recently, Student 1 has exhibited "anxiety, stress and disconnectedness." Student 1 was hypersensitive to negative attention from peers. Student 1 did not like to stand out, assumed that "he had done something wrong when asked anything".
16. In the area of math skills, Student 1 had good number sense, could predict patterns and understood addition and subtraction functionally but could not add and subtract independently. In the area of reading, Student 1 could print name, could read and write a few sight words, knew the alphabet and was working on consistent letter sound recognition, beginning with blending and segmenting sounds for consonant vowel consonant (cvc) words.
17. Student 1 reported that he was always "thinking, thinking, thinking and the words just get messed up in my head"; loved to learn new things but could become fixated and difficult to transition.
18. The PLAAFP listed IReady and IStation scores with no explanation of the scores. Student 1's scores on IReady and IStation assessments were inconsistent over time. The Grade 2 Diagnostic Review from August, 2024 through December, 2024 indicated that Student 1 was at the kindergarten level in all areas except algebra and algebraic thinking where Student 1 scored at the 1st grade level. Other than what is included on factual findings 17 through 19, there were no documentation of specific skills deficits in ELA and math.
19. It was noted in the social work (SW) evaluation that Student heard voices, and experienced enuresis and encopresis in school. In that report, the Teacher reported self-harm with biting, pinching and pulling hair. Student 1 often appeared lost and would elope. Student 1 heard voices that said do bad things and he saw monsters. The Teacher in that report stated Student 1 used toilet water to clean himself, threw himself towards cars in the parking lot, and was seemingly unaware of his environment and safety. Student 1's academic skills were inconsistent, but overall, at the beginning 1st grade level. Student 1 needed extensive 1-1 support and needed Teacher or Educational Assistant (EA) help to complete any work. Student 1 was socially isolated, did not like noise and wore headphones, did not react when hurt, lost train of thought when communicating, and lacked body awareness and hygiene.
20. Guardian had reported Student 1 was under the care of a psychiatrist. There was nothing in the records the District provided about the need for a psychiatrist. The SW report provided many recommendations that were not included as goals or accommodations on the IEP but

were listed as recommendations under present levels of functional performance for the new SW goal.

21. Student 1 received math special education services in the general education classroom through an inclusion model. The remainder of Student 1's special education and related services were provided in special education.
22. During the interview with the Investigator, the Teacher reported that Student 1's behavior and functional skills have deteriorated this year. Student 1 has defecated all over the classroom and smeared blood on the wall but would not clean himself. Student 1 needed glasses and Lions Club would assist but Guardian has significant health issues which prevented much support from home; there has been minimal support from District to assist with getting Student 1 glasses.
23. Both the IEP and District response noted Student 1 has made incremental progress on goals but still was below grade level expectations. There was no basis for the noted progress on the IEP and progress notes were provided indicating insufficient progress.
24. The SW goal on this IEP provided, "When [Student 1] becomes upset, frustrated, or overwhelmed, [Student 1] will use a self-regulation/coping strategy (movement break, deep breathing, quiet space break, deep pressure/heavy work activity, etc.) to avoid engaging in unexpected behavior with one reminder, on 3 out of 5 opportunities." As of February 4, 2024, Student 1 has not received SW services.
25. The math goal stated: "[Student 1] will demonstrate increased ability from Level 1 to Level 2 in I-ready to understand numbers, ways or representing numbers, relationships among numbers and number systems to perform simple addition and subtraction problems with 80% accuracy."
26. There were also short-term objectives (STO) for the math goal which included: Count, recognize, and write numbers from 1-100 (in and out of sequence); perform addition and subtraction operations using manipulatives; solve 1 step addition and subtraction word problems; solve problems using data presented in graphs, tables, and charts. The standard for this goal was 80% achievement.
27. The ELA goal provided, "[Student 1] will increase his readiness skills in the area of phonemics, print awareness, letter knowledge, decoding, word recognition, and comprehension from Level 1 to Level 2 as measured by teacher observation, teacher assessment and I-station.
28. The STOs for the ELA goal included: Given a list of grade-level words, [Student 1] will accurately identify and decode at least 80% of the words using phonics skills; demonstrate the ability to break down words into their component sounds (phonemes) and syllables in 4 out of 5 opportunities; when presented with unfamiliar grade level texts, [Student 1] will use phonics strategies to decode at least 5 new words per reading session; increase reading fluency by reading grade level texts at a rate of at least 90 words per minute with 95% accuracy.

29. Student 1 was learning foundational math concepts. Student 1 received 150 minutes of inclusion math and 450 minutes of ELA services in the special education room, in addition to 15 minutes each of OT and PT and 30 minutes of SW services.
30. Student was referred for a psychological and speech evaluation during the December 17, 2024 IEP. Consent was received that day but those evaluations have not been completed. They are scheduled to be completed by the end of February.
31. Student's grades for the 2024-2025 school year were a C in science, C in reading, D in math, B in PE/health, C in music and B in visual arts.

Students 2-7

32. All Students (1-7) had similar accommodations and modifications listed on their IEPs.
33. At the time the complaint was filed, all seven Students (including Student 1) received special education services in reading and math from a long-term prek-12 Substitute Teacher. The Substitute Teacher's certification did not include special education. Previously, two certified special education teachers had worked with the Students in first and second grade but one teacher was no longer with the District and the other special education teacher was placed on administrative leave. From the time when the special education teacher was placed on administrative leave on October 24, 2024 until three weeks before winter break, the last week of November, there was no certified teacher in the special education classroom. The Students all had the same educational assistant (EA).
34. The remaining students (Student 2-7) were in second grade and on IEPs under multiple eligibility categories. All of the six students received services in ELA and math. Some also received speech, OT or PT services.
35. Results from the most recent evaluations indicated that most Students were at the kindergarten level in reading and math. Student 5 was at the instructional level in reading and math and Student 6's skills were splintered with some skills at the kindergarten level and some at the first-grade level. None of the Students were performing at grade level.
36. Based on their IEPs, the six Students did not exhibit negative behaviors and the amount of special education services varied from 15.75 hours a week for Student 2 (Developmental Delay [DD] eligibility) to 6 hours a week for Student 6 (SL-Speech language eligibility).
37. All but one of the six Students received all or some of their special education services in the special education classroom.
38. For those Students that did not receive inclusion services, the Teacher reported that all Students left at the same time to receive their special education services. All the Students returned to the classroom at the same time, even though the amount of special education services on their IEPs ranged from 150 minutes per week to 450 minutes per week each for

ELA and math. The Teacher stated none of the Students left for special education services at any other time during the week.

39. There were no service logs for the amount of special education services specified on their IEPs to verify Students received all their services. Attendance in special education was collected but that did not verify how long Students received special education services.
40. Related services were not provided on a set schedule. All speech services were consistently provided but other related services were provided as required by the IEP but not in a consistent manner.
41. The Teacher was told that it was her responsibility to modify the work her class was completing and provide packets. Staff reported modifications and materials were to be prepared by another special education teacher but that did not always happen because of her own caseload.
42. Although this was disputed, the staff, present in the special education classroom, reported that all special education services were provided by the EA and were limited to simple worksheets that were not always aligned to IEP goals.
43. Progress as noted on the IEP were often limited to scores from IReady or IStation assessments without providing data on the progress made on IEP goals or STOs. Quarterly progress notes on all IEP goals for all six Students were finally provided to the Investigator after repeated requests. In some instances, there may be one progress note for the entire year or progress notes that were lacking in data or information on progress for all goals. Progress notes on related services goals were provided for all seven Students.
44. Service logs for special education and related services were not provided; only inclusion service logs were provided.
45. Grades were based on modified second grade curriculum but there were concerns that the grades did not reflect Student's skills as stated on the IEP. The basis for the grade or who determined grades varied from interview to interview.
46. Teacher reported she has never been provided the Student's IEPs. She has received a list of accommodations and modifications. She has never seen the complete IEPs including goals for Students when she has requested them; she was told that she had no need for them.

Student 2

47. Student 2 was eligible for special education services under the category of DD at the time of the most recent IEP on February 1, 2024. The most recent evaluation was completed on January 4, 2024. Student had three goals in reading, written language and math. A speech and gross motor assessment was completed in March, 2024.
48. The IEP was amended on August 20, 2024; goals were added in the area of gross motor and speech.

49. On the PLAAFP, Student 2's achievement testing was significantly below grade level. Student 2 could sing 4 of the 26 letters of the alphabet and could say some letters. Student 2 could almost spell the first name but would often omit one letter, could count to 12 and find missing numbers within 20. Most of the scores on the assessments were in the emerging kindergarten range. Student 2 struggled in using language and was delayed in social emotional skills.
50. Student received 15.75 hours per week of special education and related service, including: 450 minutes per week each in ELA and math and 15 minutes per week in PT and 30 minutes per week in speech.
51. The most recent reading goal stated, "[Student 2] will demonstrate an overall increased ability in reading readiness skills in the area of alphabetic sense, print awareness, letter knowledge, letter-sound correspondence from emergent level to a first grade as measured by Istation, teacher made tests, classwork, and teacher observation/anecdotal assessment."
52. The STOs for the reading goal provided: Identify, spell and write her name at 100% accuracy; Identify and write all uppercase letter in order and in isolation with 100% accuracy; Identify and write all lowercase letters in order and in isolation at 100% accuracy; Match letters with their corresponding sounds and sound out 1 syllable CVC words for 8/10 for 80% accuracy; Read primer level sight words/high frequency words with 80% accuracy.
53. The written language goal provided, "[Student 2] will demonstrate an overall ability in expressive written language to include correct size, shape and spacing of letters. [Student 2] will be able to draw, label, and verbally explain in detail what she is writing about to different audiences with correct conventions as measured by teacher observation, classwork, IStation assessment, and teacher anecdotal assessments by use of CCSS."
54. The STOs for the written language goal were Complete daily practice forming letters to make words with guidance at 80% accuracy; Draw pictures for purpose and to be able to explain what she drew; Label pictures (self-drawn or provided) with guidance at 80% accuracy; Independently write a 5-word sentence using familiar and sight words with 80% accuracy."
55. The math goal stated, "[Student 2] will demonstrate an overall increased ability in rote counting, number sense, computation in addition and subtraction, and number pattern predictability from emergent level to a 1st grade level as measured by Iready criteria, teacher observations, classwork, anecdotal records and daily participation."
56. The corresponding STOs were: Count to 100 by ones and 10s; When counting objects, Student 2 will be able to tell the number of objects counted; Count forward beginning from a given number within the known sequence (instead of beginning at 1); Add and subtract fluently within 20 (Using counting on and making ten strategies).
57. Progress notes for Student 2 listed insufficient progress on both ELA and math goals over multiple reporting periods. The IEP team did not reconvene to determine what other supports or services Student 2 may need to make progress.

Student 3

58. Student 3 was eligible under the category of Speech Language (SL) at the time of the most recent IEP on March 5, 2024.
59. Student 3's PLAAFP indicated that Student was at a beginning kindergarten level in academics. Student 3 could recognize 1-10, write numbers to 30, but could not add or subtract. Student 3 was unable to read sight words and was not using letter sound relationships in decoding, could not write full name or words. Student had significant expressive and receptive speech-language deficits.
60. Student 3 received 10.5 hours of special education and related services per week including 30 minutes of speech, 300 minutes each of ELA and math.
61. Student 3's ELA goal stated, "[Student 3] will be able to know and apply grade level phonics skills and word analysis skills in decoding words from an emerging kinder level to 1st level by 3/5/35 as measured by Istation, teacher observation, classwork and daily participation."
62. The corresponding STOs were Demonstrate an understanding of spoken words, syllables and sounds; Read and recognized irregularly spelled/sight words with 80% accuracy in 4 out of 5 trials; Understand the spelling-sound correspondences for common consonant digraphs with 80% accuracy in 4 out of 5 trials; Isolate and pronounce initial, medial vowel and final sounds (phonemes) in spoken single-syllable words with 80% accuracy in 4 out or 5 trials.
63. The math goal provided: "[Student 3] will demonstrate an overall increased ability in number sense, computation in addition and subtraction, and number pattern predictability from an emerging k level to a 1st grade level as measured by IReady criteria, teacher observations, classwork, anecdotal records, and daily participation."
64. The math STOs were to Recognize and count numbers up to 120 with 80% accuracy; Understand the relationships between numbers and quantities; Fluently add numbers to 20 with 80% accuracy in 4 of 5 trials; Subtract numbers to 20 with 80% accuracy in 4 of 5 trials; Given a set of numbers, solve two-digit, 2-3 added addition problems without regrouping with 80% accuracy in 4 of 5 trials.
65. Progress notes were provided for related service goals; progress on reading goals noted insufficient progress but sufficient progress on math goals. The IEP team did not reconvene to determine the reason for the lack of progress on reading goals.

Student 4

66. Student 4 was eligible under the category of DD. Student 4's most recent IEP was February 14, 2024.
67. The PLAAFP noted that Student 4 knew the alphabet if said in order, could distinguish between upper- and lower-case letters, knew 9 sight words, could copy words but not write words independently and exhibited some reversals.

68. Student 4 could write the numbers 1-22, count 1-32 but could not counting by ten, identify basic symbols such as plus and minus and identify circle, oval, triangle and octagon. Student was at kindergarten level for both reading and math.
69. Student 4 had goals in ELA (both written language and reading), math and speech.
70. Student 4 received 15.5 hours of special education and related services including: 450 minutes each in ELA and math and 30 minutes weekly of speech services.
71. The ELA Goal provided: “[Student 4] will increase reading readiness skills in the areas of phonological awareness (phonemics, print awareness, letter knowledge, decoding, word recognition, comprehension) as measured by work samples.”
72. The ELA STOs were Learn to say and identify all the letters of the alphabet in any order in English, Complete kindergarten/1st grade level sight words (25); Begin to decode unknown words that sees with prompting and assistance; Begin to identify 30 to 40 high frequency words in text; Write a short complete sentence.
73. The math Goal stated, “[Student 4] will increase his understanding of quantity by identifying, ordering, comparing and labeling different objects as measured by work samples and teacher observation.”
74. The related STOs were to Solve addition and subtraction problems, with prompting and support; Add and subtract 1-]digit and 2-digit numbers; Identify place value (Ones, tens and hundreds); Solve one step work problems with prompting and support.
75. Progress notes for ELA and math were provided without data supporting progress.

Student 5

76. Student 5 was eligible under the category of specific learning disability (SLD) and the most recent IEP was October 15, 2024. Student 5 was at the instructional level 1 in academics.
77. The PLAAFP indicate Student 5’s oral language use was deficient. Student 5 could rote count by 10s to 100, count back to subtract 1, 2, or 3 from numbers up to 10, reading comprehension, could identify a capital letter, period at end of sentence, question mark and where punctuation is at the end of the sentence. Student 5 read at the instructional level and was developing phonemic awareness.
78. Student 5 received 11.13 hours of special education and related services per week including: 300 minutes each in ELA and math, 60 minutes in speech and 7.5 minutes per week in OT.
79. The math goal provided: “[Student 5] will be able to fluently add and subtract within 20 using mental strategies with 80% accuracy on 4 out of 5 trials using work samples and assessments as methods of measurement.”
80. The ELA goal stated, “[Student 5] will be able to recount or describe key ideas or details from a text read aloud or information presented orally or through other media with 80% accuracy on 4 out of 5 trials using work samples and assessments as methods of measurement.”

81. Quarterly progress notes were provided from October, 2024. Student 5 made insufficient progress in reading but sufficient progress in math without supporting data.

Student 6

82. Student 6 was eligible under the category of SL but also received services in ELA and math.

83. Student 6's most recent IEP was on October 8, 2024. Student 6's test results on that IEP indicated that Student 6 was at a kindergarten level in math and Level 1 in reading. In math, Student 6 could add numbers within 20 and perform simple word problems, formulate equations when pictures were presented, with help, produce and interpret bar graph and line plot, count to 100 by tens and ones and count to 900 by hundreds.

84. Student 6 was able to read CVC words, match a picture with a word, identify letter in the alphabet, understand the difference between capital and lowercase, use a book and identify the title and page numbers. In writing, Student 6 was able to write dictated words with repeated practice, most sounds and most letters (upper and lower case) in the alphabet.

85. Student 6 had three goals in ELA, math and speech. Student 6 received services in the general education classroom for math and ELA, 150 minutes each per week and 60 minutes per week in speech for a total of 6 hours of services per week.

86. The math goal stated, "[Student 6] will use addition and subtraction within 100 to solve one- and two-step word problems involving situations of adding to, taking from, putting together, taking apart and comparing, with unknowns in all positions, e.g., by using drawings and equations with a symbol for the unknown number to represent the problem with 80% accuracy on 4 out of 5 trials using work samples and assessments as methods of measurement."

87. The reading goal stated, "[Student 6] will be able to ask and answer such questions as who, what, where, when, why and how to demonstrate understanding of key details in a text with 80% accuracy on 4 out of 5 trials using work samples and assessments as methods of measurement."

88. Progress notes for Student 6 indicated insufficient progress in math and reading. The IEP team did not reconvene to determine if additional services were warranted

Student 7

89. Student 7 was eligible under the category of other health impaired (OHI) with a diagnosis of attention deficit hyperactivity disorder (ADHD) and a secondary eligibility of SL. The most recent IEP was January 23, 2024.

90. The PLAAFP indicated significant articulation errors which impacted intelligibility. Student 7 knew all the alphabet sounds, simple sight words, could count to 30, add and subtract within 10 and copy 75% of the alphabet.

91. Student 7 was at the kindergarten level for both math and reading. Student 7 struggled with reading sight words and writing same size letters on a straight line.
92. Student 7 received 10.75 hours of special education and related services per week: 300 minutes each for ELA and math, 15 minutes of OT and 30 minutes of speech services.
93. The reading goal stated, “[Student 7] will demonstrate and overall increased ability on reading with fluency and accuracy in the area of decoding, work attack skills, reading with purpose and understanding, from a kinder level to a first grade as measured by I-station, teacher made tests, classwork and teacher observations/anecdotal assessments.”
94. The reading STOs were: Demonstrate an understanding of spoken words, syllables and sounds; Recognize irregularly spelled/sight words; Understand the spelling-sound correspondences for common consonant digraphs; isolate and pronounce initial, medial vowel and final sounds (phonemes) in spoken single-syllable words.”
95. The math goal stated, “[Student 7] will demonstrate an overall increased ability in rote counting, number sense, computation in addition and subtraction, and number pattern predictability from an emerging k level to a 1st grade level as measured by Iready criteria, teacher observations, classwork, anecdotal records and daily participation.”
96. The math STOs were: Count to 100 by ones and tens; Count forward beginning from a given number within the known sequence (instead of beginning at 1); Increase addition and subtraction abilities within 20 (using counting and making ten strategies).

Discussion and Conclusions of Law

Issue No. 1 pertains to Student 1. Issue 2 concerns the remaining Students (2-7) and Issue 3 addressed all seven Students.

Issue No. 1

Whether the District failed to develop and implement an IEP that would provide Student 1 a free appropriate public education (FAPE) to allow Student 1 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. Evaluated Student 1 in all suspected areas of disability;**
- b. Considered the need for additional supports and services or alternative placement when Student 1 struggled with behavior and functional skills and was placed in a mental health facility;**
- c. Provided special education and related services that were missed due to no qualified provider, and;**
- d. Considered Student 1’s needs instead of relying on passing grades when determining services and supports.**

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. 34 C.F.R. § 300.101; 6.31.2.8(A) NMAC. 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 through an IEP. *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).

Child Find is an affirmative, ongoing obligation for all children that are suspected of needing special education and related services. 34 C.F.R. § 300.111(a)(1)(i); 6.31.2.10 (A) NMAC. When children on IEPs exhibit new needs that may require special education and related services, it is the obligation of the District to seek an evaluation to determine if that student needs additional or modified specialized instruction to address that need and what special education and related services the student needs 34 C.F.R. §§ 300.304 through 34 C.F.R. § 300.311 and 34 C.F.R. § 300.15. The IDEA defines "evaluation" to mean the procedures used to determine whether a child has a disability and the nature and extent of the child's need for special education and related services. 34 C.F.R. §§ 300.304 to 300.311 and 34 C.F.R. § 300.15. An evaluation under the IDEA serves two purposes: 1) identifying students who need specialized instruction and related services because of an IDEA-eligible disability; and 2) helping IEP teams identify the special education and related services the student requires. *A.W. v. Middletown Area School District*, 65 IDELR 16 (M.D. Pa. 2015) (Evaluation was inappropriate because it lacked sufficient information to draft appropriate IEP goals). IEP teams must ensure that IEPs address student’s needs including behavioral and mental health needs that impact on learning. Evaluations can provide information necessary to develop appropriate goals and services on the IEP. *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions*, 81 IDELR 138 (OSERS 2022).

Special education teachers must hold the appropriate State certification in special education; long term substitute teachers do not automatically meet the special education certification requirements of IDEA. 34 C.F.R. § 300.156 (c)(1). Difficulties with finding certified staff is not a

valid reason for using unqualified substitute teachers. *Memorandum to State Directors of Special Educ.*, 81 IDELR 287 (OSEP 2022)

a. Evaluated Student 1 in all suspected areas of disability;

The District was aware of multiple instances of mental health concerns for Student 1 beginning with the notation on the April, 2024 IEP of recent and sudden mental health concerns. The IEP did not delineate those concerns and there was no follow up. This school year, the incident on October 23, 2024, the repeated requests from the Teacher about Student's behavior, low functional and academic skills and hearing voices telling him to do bad things, elopement and services from a psychiatrist all indicated possible mental health needs. Recently, in the SW report, Student 1 has started to demonstrate anxiety, stress, disconnectedness and elopement.

In November, 2024 Student was referred for a SW evaluation. Numerous recommendations were made in that report but were not included as accommodations or modifications on the IEP; those recommendations were only listed on the present functional levels that accompanied the SW goal. Student 1 has not yet seen the SW for services. During the December 17, 2024 IEP, consent was obtained for a speech and psychological evaluation, even though Student 1's behaviors and functional skills have been deteriorating this school year; furthermore, Student 1 has made minimal progress on IEP goals. That evaluation had not been completed at the time of the CRR. This was a violation of Part B of IDEA.

As to Issue 1a, the District is cited, Correction Action is required.

b. Considered the need for additional supports and services or alternative placement when Student 1 struggled with behavior and functional skills and was placed in a mental health facility;

Since the beginning of the school year, the Teacher has made repeated requests for assistance for Student 1. Especially since the incident on October 23, 2024, when Student's behaviors resulted in a transport to the hospital, the District has been aware of Student 1's needs and that the IEP has not been effective for Student. Although Guardian did not consent to hospitalization, the District was aware that Student was struggling and may have additional needs. A meeting was held to discuss return to school after that incident but there was no discussion about modifying or adding additional services and supports for this Student. Social work services were added at the December 17, 2024 IEP, but have yet to be implemented.

Teacher reports that Student 1 does not receive all 450 minutes of ELA services per week. It is not clear exactly how much ELA services Student 1 received since service logs were not provided for this Student. Student 1 has been making limited progress but there was no basis provided for the progress on the IEP except IStation and IReady scores. Progress notes indicted insufficient progress for this Student.

Additional supports and services are not limited to supplementary aids and services or related services but can include other options available to the IEP team including additional special education services, and in some cases, alternative placements when all other options have been tried and the student continued to be unsuccessful. When there is a question about a student needs, and the District is not sure of the needs or how best to address those needs to ensure provision of FAPE, additional evaluations may be warranted to ascertain what needs a particular student has and how best to address those needs, including additional supports and services or an alternative placement. The District's failure to address all of Student 1's needs was a violation of Part B of IDEA.

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

c. Provided special education and related services that were missed due to no qualified provider

Student 1 was to receive 150 minutes of inclusion math services and 450 minutes of ELA services weekly, in addition to OT, PT and SW. Student 1 has not received SW services yet. According to the Teacher, Student 1 leaves the classroom and returns at the same time as the other Students who receive less special education services. Student 1 does not leave the classroom for additional special education services at other times during the week to address the additional amount of services mandated by the IEP. Since staff differed on the amount of services Student 1 received and there were no service logs, it is impossible to determine what services Student 1 received or whether services were appropriate. Services that were provided were not working on Student 1's goals but were packets or computer work. The two staff members who were in the special education classroom indicated that Student 1 did not receive services aligned with IEP goals. It was unclear what grades were based on since the grades earned did not correspond to Student's skills. Moreover, Student 1 was receiving services from a preK-12 long term Substitute Teacher without special education certification. Services are provided by the EA with limited assistance from the Substitute Teacher. The Substitute Teacher was not qualified to provide specially designed instruction to students and therefore could not have been the individual to implement Student 1's special education services in math and ELA. This was a violation of Part B of IDEA.

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

d. Considered Student 1's needs instead of relying on passing grades when determining services and supports.

When the Teacher asked about additional services and supports for Student 1, no additional services were provided. At the planning meeting on October 24, 2024, there was no discussion about additional services and supports, a SW evaluation was recommended. The first IEP scheduled after the October 23, 2024 incident was December 17, 2024. Passing grades alone do

not determine the need for special education services; the provision of FAPE requires an IEP that is reasonably calculated to allow a student to make educational progress. Student 1 was eligible under the category of DD and was significantly below grade level in reading and math. See Issue 1c for information about reading services. Student 1 also had delays in functional skills and possible mental health needs, yet the IEP did not provide goals or services to address those needs. Student 1 was in second grade, could not complete basic hygiene, including toileting without assistance. Academic work required 1-1 assistance which, according to the Teacher, involved her completing the work for Student. Student was earning a C in ELA and a D in math. Grades were not based on academic mastery of second grade curriculum but completion of worksheets, albeit, according to the Teacher with extensive assistance. Student 1 was at level 1 in math, could not count numbers from 1-100 fluently or complete basic addition and subtraction and was receiving inclusion math services for 150 minutes a week. The District took no action to address Student 1's lack of progress on goals or addressed significant additional needs and failed to provide evidence of progress on IEP goals. This was a violation of Part B of IDEA.

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

Issue 2.

Whether the District failed to provide services to six named Students that would provide named Students a free appropriate public education (FAPE), 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 additional services, services and tools needed for Students to make progress;**
- b. Provided all special education services minutes for named Students outlined in IEPs;**
- c. Provided special education and related services to named Students by a qualified provider with appropriate certification.**

For students in need of special education, Districts are obligated to provide special education and related services that provide FAPE and allow students to make progress in the general education curriculum. 34 C.F.R. § 300.101; 6.31.2.8(A) NMAC. FAPE is provided through the IEP. *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. 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.

IEPs must be reviewed at least annually, or more often if student fails to make expected progress or new needs arise. 34 § C.F.R. 300.324(b)(1)(i). 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 Endrew 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-inclusive of a student's needs (academic and nonacademic) and provide sufficient information to determine a student's individual needs and develop appropriate goals to ensure progress. 34 C.F.R. § 300.324(a). The PLAAFP should describe student's skills in specific measurable terms. 34 C.F.R. § 300.320(a)(1). 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 *Endrew 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, this may be an indication that the student has not been offered FAPE or is not making progress.

a. Provided additional services, services and tools needed for Students to make progress;

In reviewing the files from Students 2-7, it became apparent that the PLAAFPs did not have sufficient skills deficit information to develop appropriate, individualized measurable goals for

these Students. Their academic skills were 1-2 years below grade level. IStation or IReady scores were provided in the PLAAFPs without explanation of the results. The limited information on the PLAAFP prevented the development of individualized measurable goals and determination of services to address the Student's needs and provide FAPE. All seven students received special education services for math and ELA (reading and/or writing). None of the students were reading or demonstrating grade level math skills but there were variations in skills from Student to Student. The goals for the Students were very similar, often with STOs that broke down the goal into steps for mastery, but the STOs were not reasonable given the Student's ability as stated on the PLAAFP. For example, "[Student 2] will demonstrate an overall increased ability in reading readiness skills in the area of alphabetic sense, print awareness, letter knowledge, letter-sound correspondence from emergent level to a first grade as measured by Istation, teacher made tests, classwork, and teacher observation/anecdotal assessment." The final reading STO indicated that Student 2 would write a 5-word sentence independently.

The amount of services listed for each student varied among the students even though their goals were similar and with no explanation for why one student needed 150 minutes a week in special education, whereas another required 300 or 450 minutes a week in special education. Some Students received inclusion services in the classroom, rather than special education; there was no information indicating why services were provided through an inclusion model. Reviewing the information on the PLAAFPs, there was no justification for the variation in location of services or time when all the children were not at grade level in both reading and math. FAPE, according to *Andrew F.*, requires more than limited progress and passing grades. These IEPs were not reasonably calculated nor did the IEP team meet when the progress from year to year continued to be incremental or was insufficient. Granted, there are some students, because of their disabilities and needs, who may only make incremental progress, but that did not seem to be the case for all seven of these students. The District failed to develop appropriate IEPs for these Students and failed to modify the IEPs, by considering the need for additional services and/or supports, when progress was not where it was expected.

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

b. Provided all special education services minutes for named Students outlined in IEPs;

The seven Students in the complaint all received special education services in ELA (reading and possibly writing) and math. The amount of services ranged from 150 minutes per week in ELA and math up to 450 minutes per week in ELA and math. See Issue 2a for further explanation of whether the location, services and amount of services was appropriate for each Student.

For the Students that went to the special education room for all or some of their special education services, the Teacher reported that all Students left the classroom at the same time for special education services. They also returned at the same time, irrespective of whether the amount of services was 30 minutes per day each for ELA and math or 90 minutes a day each for ELA and math. Students that received more services according to their IEPs did not leave the classroom for additional services at another time. Staff disagree on whether all Students received all their services. There were no service logs, only attendance records to indicate whether they received all their special education services. Thus, if the Teacher is correct, Students either received more services than mandated by their IEPs or, more likely, less services than required by their IEPs; this might explain, in part, the limited progress made on IEP goals. Since service logs for special education were not provided, it is impossible to determine the amount of services each Student was denied. All related service minutes were provided but not necessarily on a set schedule for each student. This was a violation of Part B of IDEA.

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

- c. Provided special education and related services to named Students by a qualified provider with appropriate certification.**

Previously, all seven Students received special education services from a qualified special education teacher. On October 24, 2024, the Students' Special Education Teacher was placed on administrative leave and has not been back to work as a special education teacher. In late November or early December, a certified prek-12 long term Substitute Teacher was assigned to teach the special education students. According to multiple reports, the teaching was done by the EA, with the Substitute Teacher providing inclusion services. Students were taught by the EA after the previous Special Education Teacher was placed on administrative leave on October 24, 2024. Students did not have a certified teacher in the special education room until three weeks before Winter Break, approximately the end of November. Since October 24, 2025, the EA attempted to provide appropriate services for these Students, however, she is not qualified to provide services aligned to each Student's goals. All other related services were provided by qualified providers as set out in the IEPs. See also 1c. Students did not receive their special education services from a qualified provider, a violation of Part B of IDEA.

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

Issue 3

Whether the District'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; 6.31.2.8(A) NMAC. The determination of whether there has been a denial of FAPE requires consideration of two components: substantive and procedural. The question one must answer to determine the substantive standard is whether the IEP was “reasonably calculated to allow the child to make progress appropriate in light of the child’s circumstances.” *Andrew F. v. Douglas County School District. RE-I, 137 S. Ct. 988 (2017)*. The 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 was a substantive denial of FAPE for Student 1. The District failed to evaluate and determine if additional or modified services were needed to provide Student 1 a FAPE. They had reason to suspect Student 1 may have mental health needs as early as April, 2024. Student 1 was making minimal progress on IEP goals. Behavior and functional skills were deteriorating, which would suggest that Student 1 had additional needs not addressed by the District. The IEP was not reasonably calculated to allow Student to make progress. Minimal progress is progress, but the District cannot ignore information that clearly establishes that not all of Student 1’s needs were being addressed and skills were not improving.

There were also procedural denials for Student 1. The PLAAFP was incomplete and did not provide sufficient information to develop appropriate measurable goals specifically designed for this Student. There was no justification or explanation for why Student’s math services were provided through inclusion. There was no explanation why Student received math services for 150 minutes a week when Student’s skills were foundational. There was limited progress monitoring for Student 1. Other students with similar goals and needs were receiving more services in special education. While IEPs are to be individualized, a review of the IEPs in this matter strongly suggest that Student’s IEPs were not individualized. All seven Students had similar to identical goals on their IEPs. These Students had different needs but similar accommodations and modifications. The lack of appropriate individualized goals and services denied Student 1 educational opportunity. Student 1 did not receive all IEP required services and services were not reflective of Student 1’s needs.

For the remaining six Students, there was a substantive denial of FAPE for similar reasons. The PLAAFP and progress notes were inadequate for developing appropriate individualized measurable goals. The goals were similar among Students but varying amounts of special education services and location of services without explanation. All of the six Students were making minimal or insufficient progress. The IEP teams did not reconvene to address the lack of expected progress. These IEPs were not reasonably calculated to allow Students to make educational progress in light of their circumstances.

There were also procedural violations for these six Students, including failure to provide all IEP mandated services by a qualified provider, lack of measurable goals that reflect the individualized needs of each Student. Progress monitoring was incomplete. Also, the Teacher reported that she was not provided with copies of the IEP. This is required by IDEA. 34 C.F.R. § 300.323 (d). All of these procedural violations deprived Students of educational benefit.

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

Summary of Citations

DEA/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 develop and implement an IEP that would provide Student 1 a free appropriate public education (FAPE) to allow Student 1 to make educational progress in the general education curriculum, by failing to, <ul style="list-style-type: none"> a. Evaluate Student 1 in all suspected areas of disability; b. Consider the need for additional supports and services or alternative placement when Student 1 struggled with behavior and functional skills and was placed in a mental health facility; c. Provide special education and related services that were missed due to no qualified provider; and d. Consider Student 1’s needs instead of relying on passing grades when determining services and supports.

DEA/State Rule Provisions Violated	Description of Violation
<p>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;</p>	<p>The District failed to provide services to six named Students that would provide named Students a free appropriate public education (FAPE), specifically, whether the District failed to,</p> <ul style="list-style-type: none"> e. Provide additional services, services and tools needed for Students to make progress; f. Provide all special education services minutes for named Students outlined in IEPs; g. Provide special education and related services to named Students by a qualified provider with appropriate certification.
<p>34 C.F.R. § 300.101 and 6.31.2.8 NMAC.</p>	<p>The District’s actions and/or omissions towards the named Students resulted in a denial of a free appropriate public education (FAPE).</p>

Required Actions and Deadlines

By February 25, 2025, the District’s Special Education Director must assure the OSE in writing that the District will implement the provisions of this Corrective Action Plan (CAP). The OSE requests that the District submit all documentation of the completed corrective actions to the individual below, who is assigned to monitor the District’s progress with the Corrective Action Plan and to be its point of contact about this complaint from here forward:

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 11, 2026 and reported to the OSE no later than February 25, 2026. 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 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).	February 21, 2025	Written Assurance	February 21, 2025
2.	The District’s Special Education Director and 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	February 28, 2025	Notes from meeting prepared by the District	March 7, 2025

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>
	District Special Education Director shall be responsible for arranging the meeting with OSE.			
3.	<p>District shall conduct and complete already planned psychological and speech language evaluations of Student 1.</p> <p>Evaluation reports shall be provided to parent of Student 1 when they are provided to PED.</p>	March 11, 2025	Evaluation Reports	March 18, 2025
4.	<p>District shall convene an IEP meeting for Student 1 which shall address, at minimum:</p> <ul style="list-style-type: none"> • Detailed PLAAFPs in all areas of need; • Appropriate measurable goals individualized for Student 1; • Appropriate level of special education services based on individualized goals and needs of Student 1; • Appropriate individualized accommodations and modifications; • Appropriate behavioral supports and services for Student 1 which may include a Behavioral Intervention Plan; • Appropriate placement in Student 1’s least restrictive environment; • Additional service and support needs identified 	Within 15 days of the issuance of the evaluation reports required in Step 3	<ol style="list-style-type: none"> 1. Invitation to IEP meeting; 2. Agenda for IEP meeting; 3. IEP; and 4. Prior Written Notice 	Within 7 days after the IEP meeting is held.

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>through the evaluations required in Step 3; and</p> <ul style="list-style-type: none"> • Compensatory education for period in which Student was not served by a qualified special education teacher for failure to provide appropriate minutes to students required by their respective IEPs (See Step 6). <p>The IEP team meeting <u>may</u> be facilitated if parent of Student 1 agrees to a facilitated IEP meeting.</p> <p>The IEP meeting shall be held on a date and time that is convenient for the parent. The parent will be provided with a copy of the IEP and PWN at the conclusion of the IEP meeting.</p> <p>District Special Education Director shall participate in the IEP meeting. District shall also ensure that the IEP team includes, but is not limited to, parents, special education teacher, general education teacher, and any related services providers.</p> <p>District shall ensure that all teachers and service providers working with Student are provided the IEP so that they are aware of their</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>
	responsibilities in implementing those plans.			
5.	District shall convene IEP meetings for Students 2-7 which shall address, at minimum: <ul style="list-style-type: none"> • Detailed PLAAFPs in all areas of need; • Need for additional evaluations to determine each students’ individual needs; • Appropriate measurable goals individualized for each student • Appropriate level of special education services based on individualized goals and needs of each Student; • Appropriate individualized accommodations and modifications; • Appropriate placement in each Student’s least restrictive environment; • Compensatory education for period in which Students were not served by a qualified special education teacher and for failure to provide appropriate minutes to Students required by their respective IEPs (See Step 6). 	All meeting shall be completed by April 4, 2025	1. Invitations to IEP meetings; 2. Agendas for IEP meetings; 3. IEP; and 4. Prior Written Notices	April 11, 2025

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>
6.	<p>IEP teams, as part of the IEP meetings required in Steps 4 & 5 for all Students, the IEP team shall consider necessary amount of compensatory education to address the lack of a qualified special education teacher and for any failure to provide special education services required by each Student’s respective IEPs.</p> <p>The amount and schedule for compensatory services should be developed in collaboration with the parents or guardians of Students 1-7 and can include provisions for services in the summer months. Compensatory services cannot occur during normal school hours that would interfere with Student’s current classes, including elective classes.</p> <p>The plan for compensatory education shall be documented in the respective students’ IEP or through a formal prior written notice.</p> <p>If parent of any student declines to accept compensatory education offered, District must obtain denial in writing from parent. Written denial shall be provided to PED.</p>	February 11, 2026	<p>Documentation of delivery/provision of compensatory education services, including logs of services recorded in the PED-approved Excel spreadsheet log provided by the OSE CAP monitor.</p> <p>Parent(s) written denial of compensatory education offer (If applicable).</p>	<p>Monthly from date of IEP completion of each student until the compensatory education hours are completed.</p> <p>Within 7 days of receipt of denial.</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>If District cannot provide compensatory education through District employed providers, it shall contract with a private provider to deliver these hours of compensatory education.</p>			
7.	<p>District shall develop a written plan for the school to address lack of appropriate progress monitoring and reporting of students’ progress on goals.</p> <p>District shall provide quarterly progress reports for Students 1-7 to PED for the remainder of the school year.</p>	March 14, 2025	<p>Written plan to be approved by PED</p> <p>Written Progress Reports for Students 1-7</p>	<p>March 14, 2025</p> <p>Within 7 days of the two remaining 9 week periods ending in March and May of 2025.</p>
8.	<p>The District shall arrange to provide training to school staff 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 and who was not involved in responding to this complaint.</p> <p>The training shall cover the following special education and related topics.</p> <ul style="list-style-type: none"> ● Child Find, including ongoing duty to identify student needs when appropriate progress on goals is not made; ● IEP Development <ul style="list-style-type: none"> ○ PLAAFP 	April 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 for those staff not in attendance.</p>	<p>March 24, 2025</p> <p>March 10, 2025</p> <p>April 4, 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>
	<ul style="list-style-type: none"> ○ Development of individualized and measurable goals ○ Determination of amount, location and type of services based on individualized needs of a student; ● Obligation to convene IEP meetings when Student is not making expected progress on goals; ● Development of progress notes that reflect progress or lack thereof on IEP goals with supportive data and review of plan required in Step 7; and ● Ensuring that teachers and related service providers receive their students' IEPs and understand their responsibilities related to those IEPs. 			
9.	<p>District shall develop and implement a plan to ensure that the students in this class are provided special education services by a qualified special education teacher. This can include recruitment and retention of qualified staff, shifting of current teacher assignments, and/or use of private providers. This plan shall include tracking and consideration of future compensatory education for periods in which a qualified teacher is not providing the special education services.</p>	March 11, 2025	Written plan	March 11, 2025

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>
	District shall provide a monthly report related to plan implementation until the students are served by a permanent qualified special education teacher for the total minutes required in their respective IEPs.		Monthly implementation report	Monthly until the students are served by a permanent qualified special education teacher.

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, Esq.

Complaint Investigator

Reviewed by:

/s/ Miguel Lozano

Miguel Lozano, Esq.

Deputy General Counsel, Office of General Counsel

Reviewed and approved by:

DocuSigned by:
Margaret Cage

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Margaret Cage, Ed.D.

Deputy Secretary, Office of Special Education