



STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
300 DON GASPAR
SANTA FE, NEW MEXICO 87501-2786
Telephone (505) 827-5800
www.ped.state.nm.us

MARIANA D. PADILLA
SECRETARY OF PUBLIC EDUCATION

MICHELLE LUJAN GRISHAM
GOVERNOR

**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
OFFICE OF SPECIAL EDUCATION
Complaint Resolution Report
Santa Fe Public Schools
Case No. 2425-36
April 11, 2025**

This Report requires corrective action. See pages 21-24.

On February 10, 2025, a complaint was filed with the New Mexico Public Education Department's (PED) Office of Special Education (OSE) under the federal Individuals with Disabilities Education Act (IDEA) and the implementing Federal Regulations and State Rules governing publicly funded special education programs for children with disabilities in New Mexico.¹ The OSE has investigated the complaint and issues this report pursuant to 34 C.F.R. § 300.152(a)(5) and 6.31.2.13(H)(5)(b) NMAC.

Conduct of the Complaint Investigation

The PED's complaint investigator's investigation process in this matter involved the following:

- review of the complaint and supporting documentation from complainant;
- review of the District's responses to the allegations, together with documentation submitted by the Local Education Agency at the request of the PED's independent complaint investigator;

¹ The state-level complaint procedures are set forth in the federal regulations at 34 C.F.R. §§ 300.151 to 153 and in the state rules at Subsection H of 6.31.2.13 NMAC.

- review of the District's compliance with federal IDEA regulations and state NMAC rules;
- review of District questionnaire submitted, completed, and returned on March 12, 2025;
- interview with District Principal, Current Special Education Case Manager, and Previous Special Education Case Manager on March 19, 2025;
- interview with Parent on March 19, 2025; and
- research of applicable legal authority.

Limits to the Investigation

Federal regulations and state rules limit the investigation of state complaints to violations that occurred not more than one year prior to the date the complaint is received. 34 C.F.R. § 300.153(c); 6.31.2.13(H)(2)(d) NMAC. Any allegations related to professional or ethical misconduct by an licensed educator or related service provider, or allegations related to the Americans with Disabilities Act or Section 504 of the Rehabilitation Act are not within the jurisdiction of this complaint investigation and, as a result, were not investigated. For these reasons, the Complaint Investigator did not investigate issues regarding retaliation, harassment, or intimidation.

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 District provided appropriate notice(s) of IEP meetings required by 34 C.F.R. § 300.322 and 6.31.2.13(D) NMAC.
2. Whether Student's IEP team was comprised of all required and appropriate participants, pursuant to 34 C.F.R. § 300.321 and 6.31.2.7(B)(11) NMAC.
3. Whether Parent was denied meaningful participation in educational decisions for Student when District revoked Parent's access to District properties, in violation of 34 C.F.R. § 300.322 and 300.501 and 6.31.2.13(C) NMAC.
4. Whether District conducted a comprehensive evaluation by using a variety of assessment tools and strategies to gather relevant functional, developmental, and academic

information about Student, pursuant to 34 C.F.R. § 300.304(b)-(c) and 6.31.2.10(C) and (G) NMAC.

5. Whether Student's IEP is tailored to their unique needs and reasonably calculated to enable the Student to make progress appropriate in light of their circumstances, pursuant to 34 C.F.R. §§ 300.320 and 300.324; and 6.31.2.11 NMAC.
6. Whether District provided sufficiently detailed prior written notice(s) (PWN), pursuant to 34 C.F.R. § 300.501 and 6.31.2.13(D) NMAC.
7. Whether the District's actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC.

General Findings of Fact

1. Student was first evaluated for special education eligibility in June 2022 due to reading difficulties. At that time, it was determined Student was not eligible for special education services under the specific learning disability (SLD) category.
2. Parent had an outside neuropsychological evaluation conducted in late 2022/early 2023. In part, the outside evaluation reviewed the District evaluation conducted in June 2022 and a functional behavior assessment completed in September 2022. The outside evaluator also conducted several additional tests and observations. Based on all information reviewed and gathered, in February 2023, Student was diagnosed with Attention-Deficit/Hyperactivity Disorder (ADHD) and Other Specified Anxiety Disorder. In addition, the evaluator indicated Student's scores on the June 2022 evaluation supported a diagnoses of a specific learning disorder with impairments in reading and mathematics. Several recommendations were made and information was provided regarding the International Dyslexia Association and resources available from the Yale Center for Dyslexia and Creativity.
3. An "Administrative Review" of the outside evaluation was conducted on March 8, 2023. The Review determined that, based on the outside evaluation, Student met the criteria for special education services under the other health impairment (OHI) category.
4. On March 28, 2023, Student was identified as a student with a disability under the category of OHI and an IEP was developed.
5. A new annual IEP was developed on March 1, 2024. At the time, Student was 15 years old and in the ninth grade. Relevant portions of the IEP include:

- a. Student's most recent assessment scores were notated. Specifically, the following January 2024 iReady scores were included:
 - i. Reading: 593 (grade 6)
 - 1. Vocabulary – Grade 8
 - 2. Comprehension: Literature – Grade 7
 - 3. Comprehension: Information Text – Grade 4
 - ii. Math: 498 (grade 7)
 - 1. Number and Operations – Tested out
 - a. In areas the IEP indicated Student “tested out,” the actual score key indicated Student scored “mid or above grade level.”
 - 2. Algebra and Algebraic Thinking – Grade 7
 - 3. Measurement and Data – Tested out
 - 4. Geometry – Grade 7
- b. The IEP contains four annual goals to address academics and career readiness. Specifically:
 - i. Identified Area of Need: Math
 - 1. Present levels state, in part, Student is not comfortable using algebra and commonly uses the incorrect math operation. The impact statement states Student has challenges with focus and attention.
 - 2. Goal: “When in math and related areas, given models, visual supports, and checklists, [Student] will be able to solve linear equations and inequalities with one (or more) variables, including equations with coefficients represented by letters at level of 80% accuracy in 4 out [sic] of 5 trials by end of the IEP as measured by Performance Assessments.”
 - a. The goal repeats the high school math standard.
 - ii. Identified Area of Need: Written Language
 - 1. Present levels state, in part, Student does not take the time to focus on work and turns in incomplete assignments, at times. Most recently, Student did not read instructions closely and did not know the key idea and events of a story read. The impact statement states Student has challenges with focus and attention.
 - 2. Goal: “When given sufficient instruction, the support of an adult, and guided use of a graphic organizer, [Student] will be able to write an essay of five (or more) paragraphs, in which each paragraph has fewer than three grammatical errors per paragraph in at least [sic] two trials per quarter by end of the IEP as measured by Portfolios.”
 - iii. Identified Area of Need: Reading Comprehension

1. Present levels are the same as the present levels included under written language.
2. Goal: "When given a text and a comprehension strategy to use, [Student] will be able to correctly answer three out of five comprehension questions in at least two trials per quarter by end of the IEP as measured by Performance Assessments."
- iv. Identified Area of Need: Career Readiness
 1. Present levels state Student does not turn in formative assessments with enough time to get feedback from teachers.
 2. Goal: "When in all settings and across all curriculum, with the support of teacher reminder emails as necessary, [Student] will be able to use the online grading platform to check [word omitted] completion home learning assignments, and seek help, clarification, or feedback from a teacher at a frequency of 80% accuracy or higher in each class by end of the IEP as measured by Anecdotal Records."
- c. The following special education services were to be provided:
 - i. Language Arts: 60 minutes/week (regular classroom)
 - ii. Math: 60 minutes/week (regular classroom)
6. The prior written notice (PWN) attached to the IEP indicates, in part, Parent requested Student be evaluated to look for characteristics of dyslexia. The PWN specifically states that Student's then-current reading test scores were below grade level and additional information was sought to better provide for Student in the IEP.
7. Parent provided their consent for District to conduct "assessments to examine characteristics of dyslexia" on March 1, 2024.
8. A psycho-educational evaluation was conducted and a report of the findings is dated April 24, 2024. Relevant portions of the report include:
 - a. Student scored in the "low average" range on reading comprehension, specifically the reading recall portion, and spelling tests. Student scored in the average range on all other tests (i.e., basic reading skills, reading fluency, and phoneme-grapheme knowledge)
 - b. Student scored in the low average range in phonological memory and above average in phonological awareness and rapid symbolic naming.
 - c. Student scored within the average range in word reading efficiency and silent word reading fluency.
 - d. Student did not exhibit a greater than -1.5 standard deviation difference in achievement. In addition, characteristics of dyslexia were not indicated.
9. On May 3, 2024, via email, the parties determined a date to hold a meeting to discuss the recent evaluation. A formal meeting invitation was created for the meeting scheduled. However, it is unclear if it was provided to Parent prior to the meeting.

10. A meeting was held on May 13, 2024 to discuss the findings in the report. A new IEP was created at the IEP meeting. However, the only change was that Student's May 2024 iReady assessment scores were added and the start date for special education services was updated to May 13, 2024. Specifically, the iReady scores included were:
 - a. Reading: 628 (an increase of 35 points)
 - i. Vocabulary – Grade 9 (increased one grade level)
 - ii. Comprehension: Literature – Grade 8 (increased one grade level)
 - iii. Comprehension: Information Text – Grade 7 (increased three grade levels)
 - b. Math: 497 (decreased one point)
 - i. Number and Operations – Grade 8 (no longer “tested out”)
 - ii. Algebra and Algebraic Thinking – Grade 5 (decreased two grade levels)
 - iii. Measurement and Data – Grade 7 (no longer “tested out”)
 - iv. Geometry – Grade 8 (increased one grade level)
11. The PWN attached to the new May 13, 2024 IEP states, in part, Student does not demonstrate significant academic deficits when compared to peers and Student does not meet the criteria for SLD nor were characteristics of dyslexia indicated.
12. Progress was reported in May 2024. The report indicates Student made sufficient progress on all IEP goals. The comments regarding Student's progress include the May 2024 iReady test scores, a grade Student received on a writing assignment, and that Student turned in 80% or more of assigned work.
13. The 2024-25 school year began on August 8, 2024. Student was then in the tenth grade.
14. In September 2024, via email, an IEP meeting was scheduled for October 7, 2024. It is unclear why an IEP meeting was scheduled. A meeting invitation was provided to Parent. However, in a follow-up email, Parent stated the meeting invitation did not include the names of all the attendees that were sent a Google calendar invite for the upcoming meeting. Parent asked who would be in attendance, what the purpose of the meeting was, and how long the meeting would be. District stated a new invite would be sent home. It is unclear if a new invite was provided.
 - a. Neither the original or updated meeting invitations were provided to Investigator.
15. Progress was reported in October 2024. The report indicates Student made sufficient progress on all IEP goals. The comments regarding Student's progress include Student's grade on a written essay, that Student scores within the 3-4 range on language and literature assignments and a math summative, and that Student seeks feedback from teachers 85% of the time.
16. At the request of Parent, the October 7, 2024 meeting was rescheduled. At some point, the parties agreed to hold an IEP meeting on November 6, 2024. No formal meeting invitation was provided to Investigator so it is unclear if a formal invite was created and/or provided to Parent. However, a Google calendar invite was sent to Parent on October 24,

2024. The Google invite indicates the date and time of the IEP meeting and was sent to several people, including District’s legal counsel. The people included as “guests” on the invite are either identified by name or by email address. It is unclear if Parent knew who each person invited was, including District’s legal counsel.

17. The morning of November 6, 2024, Parent’s ombudsman inquired about attending the upcoming meeting online. Special Education Case Manager indicated virtual attendance was not an option. Shortly thereafter, a different District staff member provided a Google link for the ombudsman to participate in the meeting.

18. An IEP meeting was held on November 6, 2024. In attendance were Student, Parents, two general education teachers, two special education teachers, PSS (Professional Support Service), principal, a person qualified to interpret test results, the registrar, and District’s legal counsel. Parent’s ombudsman was also present but their attendance was not indicated on the attendance sheet. There is no documentation, other than the Google calendar invite, indicating Parent was notified that District’s counsel would be in attendance prior to the meeting. In addition, despite District’s counsel’s presence at the meeting, they did not sign the meeting participant sheet.

a. District did not admit that its legal counsel was present but there is sufficient information to support a finding that they were.

19. Another IEP meeting was held on November 14, 2024 IEP. In attendance were the Parent, general education teacher, two special education teachers, PSS, principal, a person qualified to interpret test results, the registrar, and District’s legal counsel. There is no documentation indicating Parent was notified that District’s counsel would be in attendance prior to the meeting. In addition, despite District’s counsel’s presence at the meeting, they did not sign the meeting participant sheet.

a. District did not admit that its legal counsel was present but there is sufficient information to support a finding that they were.

20. A new annual IEP was developed at the meeting. Relevant portions of the IEP dated November 14, 2024 include:

a. Student’s most recent assessment scores were notated. Specifically, the following August 2024 iReady scores were included:

i. Reading: 630 (increased two points)

1. Vocabulary – Approaching grade 10

2. Comprehension: Literature – Approaching grade 10

3. Comprehension: Information Text – Approaching grade 10

ii. Math: 493 (decreased four points)

1. Number and Operations – Needs Improvement

2. Algebra and Algebraic Thinking – Needs Improvement

3. Measurement and Data – Needs Improvement

4. Geometry – Needs Improvement

- b. The IEP contains three annual goals to address academics and career readiness. Specifically:

i. Identified Area of Need: Math

1. Present levels state, in part, Student turns in homework but does not show independent knowledge in class. The impact statement states Student has challenges with focus and attention.
2. Goal: “When in math class and related subject areas, when supported by examples and visuals, [Student] will be able to interpret expressions that represent a quantity in terms of its context.
 - Interpret parts of an expression, such as terms, factors, and coefficients.
 - Interpret complicated expressions by viewing one or more of their parts as a single entity.
 - Discuss based on evidence
 - State with a detailed explanation or calculation
 - Solve and justify an answer at 85% - 90% accuracy (IB Level 5-6) by end of the IEP as measured by Performance Assessments.”
 - a. The goal is the math 9-12.1. grade standard.

ii. Identified Area of Need: Written Language/Reading Comprehension

1. Present levels state, in part, Student stays on task and is focused in class. Student could improve their attention to detail, editing process, and creating a clear thesis. The impact statement indicates Student is challenged with editing, paying attention to detail, and synthesizing what is read/heard.
2. Goal: “When in all academic settings, [Student] will be able to develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.
 - Evaluate and interpret knowledge to draw conclusions
 - Organize ideas and information in systematic order
 - Justify to support an answer at 85%-90% accuracy (IB Level 5-6) by end of the IEP as measured by Performance Assessments.”
 - a. The goal is the language arts 9-10 grade standard.

iii. Identified Area of Need: Career Readiness

1. Present levels include results of the career interest survey and PSAT scores. The impact statement states Student would benefit from improving self-advocacy to clarify details of assignments.
2. Goal: “When in all settings and across all curricula, [Student] will be able to consistently communicate with teachers to reiterate the details of an assignment, clarify instructions, and establish

priorities, self-advocating for extended time if appropriate at 2-3 times per week by end of the IEP as measured by Anecdotal Records.”

- c. The following special education and related services were to be provided for the remainder of the 2024-25 school year:
 - i. Language Arts: 60 minutes/week (regular classroom)
 - ii. Math: 60 minutes/week (regular classroom)
 - iii. Study Skills: 30 minutes/week (regular classroom)
21. The PWN attached to the November 14, 2024 IEP states, in part, that an assistive technology (AT) consult and a speech language evaluation would be conducted.
22. District requested consent to conduct the speech language evaluation and obtained Parent’s consent on November 14, 2024.
23. On December 2, 2024, via email, Parent requested that Student be evaluated for dyslexia. In response, District stated the April 2024 evaluation concluded that Student did not meet the criteria for SLD in reading nor did Student exhibit characteristics of dyslexia. Parent replied that Student has not shown growth and District has not addressed the lack of growth effectively.
24. On December 11, 2024, District sent a formal letter to Parent indicating it would agree to hold another IEP meeting to review any evaluations that show indications of dyslexia to determine if Student requires special education services to address same. In response, on December 12, 2024, Parent requested an independent education evaluation (IEE) to determine the appropriate level of support and services for Student.
25. Student was observed in Spanish class per the AT consult. The observer noted Student did not display difficulties with reading or writing on the Chromebook, nor did Student need any modifications to the font of the text or assistance typing or writing. The observer concluded Student did not demonstrate a need for any assistance with speaking, listening, reading or writing.
26. The speech evaluation was conducted and a report of the findings is dated December 20, 2024. The report was not provided to parent until mid-January 2025. The report concluded that Student’s scores in the areas of expressive, receptive, and pragmatic language were all within the average range. Therefore, Student did not require specially designed instruction in these areas.
27. Progress was reported in December 2024 on the new IEP goals. The report indicates Student made sufficient progress on all IEP goals. The comments regarding Student’s progress includes the December 2024 iReady test scores, a score range on math and history assignments, a comment that Student did not turn in 12 required reading updates, and that Student communicates with teachers 70% or more.
28. Student received all passing grades (C or better) during semester 1 of the 2024-25 school year.

29. On January 8, 2025, Parent requested an IEP meeting for Student. On January 10, 2025, Student's other parent indicated their availability the morning of January 24, 2025. On January 13, 2025, a Google invite was sent to Parent for a meeting to be held for Student and Student's sibling on January 24, 2025, although it was not entirely clear that an IEP meeting was to be held for the student of this complaint. When Parent expressed confusion, District attempted to clarify the purpose of the meeting but did not clarify which student it was referring to. Parent stated "we will attend both meetings." The Google invite includes a list of guests, most of which are only identified by their email address. One email address included is that of District's legal counsel.
30. District provided a formal meeting invitation to Investigator. It is unclear if the invitation was provided to Parent. The meeting invitation indicates the purpose of the January 24, 2025 meeting was to review the AT and speech language assessments. In addition to Student, four people were identified as expecting to attend the meeting. Specifically, a general education teacher, special education teacher, a "PSS," and the principal.
31. An IEP meeting was held on January 24, 2025, to discuss the findings of the recently completed assessments. In attendance were Parent, a general education teacher, special education teacher, PSS, principal, a district representative, evaluator, and District's legal counsel. The district representative and District's legal counsel had been included on the Google invite, although not by name, but the evaluator had not.
32. At the meeting, the IEP Team discussed the assessments. No changes were made to the IEP. Parent asserts they did not know the student of this complaint was going to be discussed; Parent believed the meeting was only in regards to Student's sibling. After the meeting regarding Student concluded, a second meeting began regarding Student's sibling. The parties gave somewhat conflicting stories regarding what happened. However, both parties stated that District ended the meeting abruptly and asked Parent to leave the premises.
33. The PWN regarding Student's IEP meeting states, in part, the AT consultation was reviewed; Student does not have a speech or language impairment; and Parent will be provided a list of individuals to select from to conduct an "educational diagnostic assessment of characteristics of dyslexia."
34. Following the meeting, and as a result of Parent's conduct, District sent a letter to Parent stating Parent was no longer allowed to enter any District campus or administrative site without prior approval, with the exception of picking up Parent's children in the school parking lot. In addition, Parent was limited to communicating with staff via email.
35. At the time of this writing, Parent has not notified District of whom they would like to conduct an IEE.
36. Special Education Case Manager indicated their usual practice regarding providing meeting invitations is to send a calendar invite to parents. During the 2024-25 school year,

there is only one meeting in which it is clear a formal meeting invitation was sent prior to the meeting – the meeting originally scheduled for October 7, 2024. Parent asserts typically a meeting invitation is not provided until at the meeting when Parent is requested to sign it.

Discussion and Conclusions of Law

Issue No. 1

Whether District provided appropriate notice(s) of IEP meetings required by 34 C.F.R. § 300.322 and 6.31.2.13(D) NMAC.

Each district has a duty to provide the parents of a child with a disability advance written notice of IEP meetings. 6.31.2.13(D)(1) NMAC; *see also* 34 C.F.R. § 300.322(a)(1).

The notice required to be provided to parents must: (1) indicate the purpose, time, and location of the meeting and who will be in attendance and (2) inform the parents of their right to invite individuals who have knowledge or special expertise about the student. *Id.* at 300.322(b)(1).

So long as a meeting notice identifies district attendees by position, it need not identify the attendees by name. *See Letter to Anonymous*, 50 IDELR 259 (OSEP 2008).

Since May 2024, several IEP meetings have been scheduled for Student. Of the four IEP meetings actually held, formal meeting invitations were only provided for the May 13, 2024, November 14, 2024, and January 24, 2025, meetings. However, there is no indication any of the three formal meeting invites were provided to Parent in advance of the meetings. In fact, District admitted that it typically notifies parents of IEP meetings via a calendar invite which calls into question when the formal meeting invitations were first created.

The calendar invites fail to include the purpose and location of the meetings, nor does it inform Parent of their right to invite discretionary meeting participants. In addition, the calendar invites do not adequately identify whom will be in attendance, as not everyone included in the calendar invite is named or identified by position.

District's failure to provide adequate advance notice, as required by 34 C.F.R. § 300.322 and 6.31.2.13(D) NMAC, results in a procedural violation.

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

Issue No. 2

Whether Student's IEP team was comprised of all required and appropriate participants, pursuant to 34 C.F.R. § 300.321 and 6.31.2.7(B)(11) NMAC.

An IEP team must include (1) the parents of the child; (2) one regulation education teacher of the child; (3) one special education teacher of the child; (4) a representative of the district; (5) an individual who can interpret the instructional implications of evaluation results; (6) other individuals who have knowledge or special expertise regarding the child, at the discretion of the parent or district; and (7) the child, when appropriate. 34 C.F.R. § 300.321(a) and 6.31.2.7(B)(11) NMAC.

A district violates the notice requirements when individuals whom did not appear on the meeting notice are included in the IEP meeting. *See, e.g., Greeneview Local Schs.*, 117 LRP 18017 (SEA OH 04/18/17) (finding that the district violated the notice requirements when it failed to tell the parent that the superintendent would attend the IEP meeting).

The Office of Special Education Program's position is to “strongly discourage” attorney attendance at IEP meetings. “[A]n attorney's presence would have the potential for creating an adversarial atmosphere that would not necessarily be in the best interests of the child.” *Letter to Clinton*, 37 IDELR 70 (OSEP 2001).

Parent alleged that District failed to provide adequate notice of IEP meetings, District’s attorney was present at meetings, and District refused to allow both parents and Parent’s advocate from attending meetings.

As discussed above, District failed to provide adequate notice of the scheduled IEP meetings. At each of May 13, 2024; November 6, 2024; November 14, 2024; and January 24, 2025 meetings additional attendees were present at the meetings who were not first disclosed to Parent. For example, Student’s now-current Case Manager was in attendance at the May 13, 2024, meeting and District’s legal counsel was present at the November 6, 2024, meeting without proper parental notice of same.

With that said, the mandatory meeting participants were present at each of the IEP meetings. In question is whether certain individuals, such as the District attorney and Parent advocate, should have been included.

At the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the student may be invited. 34 C.F.R. § 300.321(a) and 6.31.2.7(B)(11) NMAC. Neither the parent or the district may “veto” the attendance of a person invited by the other party. *Horen v. Bd. of Educ.*, 655 F. Supp. 2d 794 (N.D. Ohio 2009).

Even though strongly discouraged, District may invite its legal counsel to attend IEP meetings so long as Parent is notified in advance. While Parent was not properly notified, there is no finding that District's legal counsel's attendance results in a violation of 34 C.F.R. § 300.321(a) and 6.31.2.7(B)(11) NMAC.

In addition, there was at least one instance in which Parent's advocate asked the day of a scheduled IEP meeting to attend the meeting remotely. At first, District indicated remote attendance was not an option and offered to reschedule the meeting. However, shortly after, District changed its stance and Parent's advocate was allowed to participate in the meeting remotely. As Parent's advocate was permitted to attend remotely, there is no violation for same.

Finally, Parent asserted Student's other parent was not permitted to attend all IEP meetings. It is unclear which IEP meeting(s) the other parent was not permitted to attend. Seemingly, due to confusion regarding which student the January 24, 2025, IEP meeting was for, the other parent did not make themselves available for Student's IEP meeting. However, the other parent had indicated they were available the morning of January 24, 2025. Thus, District had no reason to believe the other parent was not available.

In all, the mandatory meeting participants were present at each IEP meeting, as required by 34 C.F.R. § 300.321(a) and 6.31.2.7(B)(11) NMAC. In addition, Parent's advocate and Student's other parent were afforded the opportunity to attend the IEP meetings at issue. For these reasons, there is no finding that District violated 34 C.F.R. § 300.321(a) or 6.31.2.7(B)(11) NMAC.

Of importance, 6.31.2.11(B)(3) NMAC requires that the IEP include the signature and position of each participant at the IEP meeting. There is sufficient evidence that District's legal counsel was present at both the November 6, 2024 and November 14, 2024 IEP meetings but their participation was not notated on the IEP. Similarly, Parent's advocate attended the November 6, 2024 IEP meeting virtually, yet their participation was not notated. District's failure to include the signature and position of each participant at each IEP meeting results in a violation of 6.31.2.11(B)(3) NMAC. The original acknowledgement letter did not provide notice that 6.31.2.11(B)(3) NMAC was at issue. However, under NMPED's general supervisory authority, corrective action will be required. 34 C.F.R. § 300.149.

As to Issue No. 2, the District is not cited.

Issue No. 3

Whether Parent was denied meaningful participation in educational decisions for Student when District revoked Parent's access to District properties, in violation of 34 C.F.R. § 300.322 and 300.501 and 6.31.2.13(C) NMAC.

Parents are mandatory members of the IEP team. 34 C.F.R. § 300.321(a)(1). Thus, districts must take steps to ensure that one or both parents of a student with a disability are present at each IEP meeting and afforded the opportunity to participate in the meeting. *Id.* at 300.322(a).

A district is permitted to implement a no trespass order and/or communication plan, so long as neither impedes the parents right to meaningfully participate in the IEP development process. *See e.g., Forest Grove School District v. Student*, 73 IDELR 115 (D. Ore 2018).

Here, District imposed a no trespass order following perceived inappropriate conduct by Parent at the January 24, 2025 IEP meeting. In addition, Parent was only permitted to communicate with staff via email.

At this point, there is no evidence that the no trespass order or limited communication prohibits Parent from meaningfully participating in Student's educational programming. With that said, District is reminded that Parent's in-person attendance at IEP meetings is preferred by the IDEA but that the parties may agree to use alternative means. 34 C.F.R. §§ 300.322 and 300.328. In addition, moving forward, any restrictions on Parent's communication with staff must not impede Parent's right to meaningfully participate.

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

Issue No. 4

Whether District conducted a comprehensive evaluation by using a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about Student, pursuant to 34 C.F.R. § 300.304(b)-(c) and 6.31.2.10(C) and (G) NMAC.

When conducting an evaluation, the district must "[u]se a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child." 34 C.F.R. § 300.304(b). The purpose of this is so that the information gathered may assist in determining whether the child has a disability and the content of the child's IEP. *Id.*

Evaluations must be sufficiently comprehensive to identify all of the child's special education needs, whether or not commonly linked to the disability category with which the child has been identified. 34 C.F.R. § 300.304(c)(6).

In the complaint, Parent indicated the District failed to assess Student for dyslexia. As demonstrated in the Findings of Facts, Parent first requested dyslexia testing in March 2024. District agreed to conduct the testing and the results of same determined Student did not show characteristics of dyslexia.

Prior to March 2024, the only instance in which dyslexia was mentioned was in the February 2023 outside evaluation report in which dyslexia resources were included under the recommendations. Nothing in the report suggests Student was showing characteristics of dyslexia nor is it clear why those resources were included in the recommendations. Nonetheless, there is no indication there was a concern regarding dyslexia until Parent indicated same in March 2024. District acted appropriately by conducting an evaluation, per Parent's request. Moreover, Parent did not disagree with the determination made in May 2024. It wasn't until December 2024 that Parent again requested dyslexia testing, in an attempt to explain Student's lack of progress. When Parent inquired months later about obtaining an IEE, District responded appropriately and provided Parent a list of outside evaluators to choose from. For these reasons, there is no violation found.

As to Issue No. 4, the District is not cited.

Issue No. 5

Whether Student's IEP is tailored to their unique needs and reasonably calculated to enable the Student to make progress appropriate in light of their circumstances, pursuant to 34 C.F.R. §§ 300.320 and 300.324; and 6.31.2.11 NMAC.

The IDEA requires school districts to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). The IEP is the means by which special education and related services are "tailored to the unique needs" of the student. *Board of Ed. of Hendrick Hudson Central School Dist., Westchester Cty. v. Rowley*, 458 U.S. 176 (1982).

Parent alleged District has been reluctant to provide necessary support services to Student and there is lack of clarity regarding Student's educational program. Parent indicated a great concern regarding Student's lack of progress and/or regression in academics.

The IDEA requires that an IEP include the student's present levels of academic achievement and functional performance. 34 C.F.R. § 300.320(a)(1). Present levels are the foundation of the IEP and are to be included so that everyone working with the student knows the level at which the student is functioning and to describe the needs of the student to develop the annual goals. Present levels should be specific and objectively measurable. See e.g., *O'Toole v. Olathe Dist. Schs. Unified Sch. Dist. No. 233*, 28 IDELR 177 (10th Cir. 1998).

An IEP must include measurable goals designed to “[m]eet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum.” 34 C.F.R. § 300.320(a)(2). Goals should be written in a way that allows for an objective measurement of the child’s progress toward achieving the goals. In other words, an IEP goal should pass the “stranger test.” That is, a person unfamiliar with the student’s IEP would be able to implement the goal, assess Student’s progress on the goal, and determine whether the progress was satisfactory. *Mason City Community School District, 46 IDELR 148 (SEA IA 2006).*

Here, there are two IEPs subject to this investigation – the IEPs dated March 1, 2024 (with the May 14, 2024 amendments) and November 14, 2024. Both IEPs include present levels, however, many present levels lack specific, objectively measurable and/or relevant information to inform the goals. For example, the March 1, 2024 IEP present levels regarding Student’s writing abilities includes information regarding Student’s focus, work completion, and inattention but says nothing regarding Student’s ability to write an essay with few grammatical errors which is what the corresponding goal targets. The same present levels were included for Student’s reading goal which, similarly, does not correlate with Student’s ability to answer reading comprehension questions. The November 14, 2024 IEP is similar. For example, the present levels related to Student’s math goal indicates Student turns in homework but does not demonstrate independent knowledge while in class. The corresponding goal targets Student’s ability to interpret parts of an expression. There is no information included in the IEP to inform the reader what Student’s then-present abilities were in interpreting parts of an expression.

Moreover, not all goals included in the two IEPs are measurable or individualized. For example, in March 1, 2024 IEP, the reading comprehension goal makes no mention of the grade level of text to be used. In the November 14, 2024 IEP, it is unclear how one would implement or progress monitor the academic goals written. For instance, the writing/reading goal requires Student to “evaluate and interpret knowledge to draw conclusions.” It is unclear if the 85-90% measurement is required here and, if so, how one would determine the accuracy of same. In addition, in both IEPs, the academic goals are the grade level standard with no changes. At the time of development of the November 2024 IEP, Student’s most recent assessment indicated Student’s math abilities were at the seventh-grade level. Despite not being at grade level, the IEP includes the high school math standard verbatim as Student’s IEP goal. Seemingly, Student is held to the same standard as any student would be, even though Student is a student with a disability.

Of further concern, Student was found eligible for special education services under the OHI category based on a diagnosis of ADHD. Student’s present levels in both IEPs indicate Student has difficulty maintaining attention and completing work. The March 1, 2024 IEP includes a goal

that requires Student to check work completion and seek help from a teacher. Yet there are no services that correspond with the goal. Each IEP goal should have corresponding instruction or services to address the identified need. *See e.g., In re: Student with a Disability*, 123 LRP 24116 (SEA VA 08/09/23).

Finally, District asserts Student has made sufficient progress over the last year. However, it is difficult to determine if that is truly the case. Progress reports are vague and offer very little information regarding Student's skills. In addition, Student's math assessment scores have steadily declined since May 2024. Student's reading assessment scores had been increasing but most recently, in December 2024, decreased over three grade levels. This should cause pause to the IEP team and calls for a review and, possibly, revision of the IEP, per 34 C.F.R. § 300.324(b), which the IEP team has not done.

In all, District's failure to include meaningful present levels in the IEPs results in a procedural violation of 34 C.F.R. § 300.320. District's failure to include measurable annual goals tailored to Student's educational needs and corresponding services violated the IDEA's substantive requirements. As such, the IEPs are not reasonably calculated to allow Student to receive an educational benefit, resulting in a denial of FAPE. Finally, District's failure to reconvene the IEP team to address Student's decreasing, concerning test scores results in a procedural violation of 34 C.F.R. § 300.324(b).

As to Issue No. 5, the District is cited, and Corrective Action is required.

Issue No. 6

Whether District provided sufficiently detailed prior written notice(s) (PWN), pursuant to 34 C.F.R. § 300.501 and 6.31.2.13(D) NMAC.

A district must provide prior written notice prior to proposing or refusing to change the provision of FAPE to a child. 34 C.F.R. § 300.503. The content of the notice must include: (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal. *Id.*

The complaint indicated District provided unclear and inconsistent information regarding IEP meetings, assessments, and support services for Student. When asked to clarify, Parent indicated they have been confused regarding scheduled IEP meetings and Student's progress or lack thereof. As neither scheduling of IEP meetings or Student's progress relates to PWN, this issue was not investigated any further.

As to Issue No. 6, the District is not cited.

Issue No. 7

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

FAPE must be made available to all children with disabilities. 34 C.F.R. § 300.101; 6.31.2.8 NMAC. School districts must provide FAPE for each student who resides within the school district's educational jurisdiction. 6.31.2.9(A) NMAC. Violations of the IDEA may be based on either substantive or procedural violations. A procedural violation constitutes a denial of FAPE if it: (1) impedes the child's right to FAPE; (2) significantly impedes the parent's opportunity to participate in the decision-making process regarding the provision of FAPE; or (3) causes a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2). A substantive legal standard for determining whether a district offered a student FAPE is whether the IEP was reasonably calculated to enable the child to make progress appropriate in light of their circumstances. *Endrew F.*, 137 S. Ct. 988 (2017).

District's failure to provide adequate notice of scheduled IEP meetings results in a procedural violation. Due to District's lack of notice, it was difficult to ascertain why IEP meetings were held. Parent, too, was confused regarding the purpose of meetings and which of Parent's children the meeting pertained to rendering Parent unprepared and unable to meaningfully participate in, at minimum, the January 2025 IEP meeting. Thus, District's inadequate notice impacted Parent's opportunity to meaningfully participate and results in a denial of FAPE.

Substantively, the March 1, 2024 and November 14, 2024 IEPs were/are not reasonably calculated to enable the child to make progress appropriate in light of their circumstances, denying Student FAPE.

As to Issue No. 7, the District is cited, and Corrective Action is required.

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. § 300.322 and 6.31.2.13(D)(1) NMAC	District failed to provide adequate notice of IEP meetings.
6.31.2.11(B)(3)	District failed to include the signature and position of each member of the IEP team and other participant on the IEP document.
34 C.F.R. §§ 300.320 and 300.324 6.31.2.11 NMAC	District failed to develop an IEP reasonably calculated to meet Student's unique needs.
34 C.F.R. § 300.101 6.31.2.8 NMAC	District's actions and/or omissions towards the Student resulted in a denial of FAPE to the Student.

Required Actions and Deadlines

By April 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 November 21, 2025 and reported to the OSE no later than December 5, 2025. All documentation submitted to the OSE to demonstrate compliance with the CAP must be clearly labeled to indicate the state complaint case number and step number.

Corrective Action Plan

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
1.	As described above, the District will submit a written assurance to the PED Corrective Action Plan Monitor that it will abide by the provisions of this Corrective Action Plan (CAP).	April 25, 2025	Written Assurance Letter/Email	April 25, 2025
2.	The District Special Education Director and the school principal shall meet virtually with the OSE Education Administrator assigned to the District and the OSE CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the District plans to take to ensure that the violations are corrected and do not recur. The District Director has the discretion to include other District or school administrators or personnel in this meeting. The District Director shall be responsible for arranging this virtual meeting with OSE.	May 2, 2025	Notes from meeting prepared by District	May 9, 2025
3.	The District Special Education Director will meet with the case managers and Student's special education teachers and related service providers at both the middle school and high school to review the Complaint Resolution Report to ensure that those persons understand the complaint, the violations that were found, and the corrective action that will be taken to address the violations.	May 9, 2025	Notes from meeting prepared by District	May 16, 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>
4.	<p>The District and/or School shall review and revise, where necessary, its special education policies regarding notification of IEP meetings.</p> <p>The revised policies are subject to PED approval prior to its submission to its Governing Council for ratification.</p>	July 11, 2025	<p>Copy of revised Council-approved policy</p> <p>Draft of Proposed Policy Revisions for PED approval</p>	<p>July 18, 2025</p> <p>June 13, 2025</p>
5.	<p>The District shall convene a facilitated IEP meeting for Student. The facilitated IEP meeting shall address, at minimum:</p> <ul style="list-style-type: none"> • The Student's progress on all IEP goals; • Student present levels of performance regarding all areas of need; • IEP goals; • Schedule of services; and • Plan for compensatory education required by Step 6. <p>The facilitator shall be independent of the District and shall be selected from the PED list of approved facilitators. The Facilitator shall be paid for by the District.</p> <p>The District shall ensure a meeting notice is provided in advance of the meeting, pursuant to 34 C.F.R. § 300.322.</p>	May 16, 2025	<p>1. Invitation to IEP meeting;</p> <p>2. Agenda for IEP meeting;</p> <p>3. IEP; and</p> <p>4. Prior Written Notice(s)</p>	7 days after the FIEP 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>
6.	<p>The District shall provide the following compensatory education:</p> <ul style="list-style-type: none"> 1) 7 hours in study skills 2) 10 hours in math 3) 7 hours in language arts <p>The plan for compensatory services shall be documented in the PWN for the facilitated IEP meeting.</p> <p>These compensatory services are above and beyond the regular services required by Student's IEP. The schedule for compensatory services should be developed in collaboration with the Parent and can include provisions of services in the summer months.</p> <p>If the District, due to staffing or other limitations, is unable to provide the needed IEP and compensatory services as outlined in Student's IEP and the compensatory services plan, the District is required to contract with a private provider to ensure those services are provided.</p>	November 21, 2025	<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>Prior Written Notice containing plan for compensatory services</p>	<p>Monthly from date of compensatory services plan until the compensatory education hours are completed</p> <p>7 days after the FEIP meeting is held</p>
7.	<p>The District shall arrange training for school staff (including special education teachers, special education administrators, and related service personnel) to be provided by a person independent of the District with expertise in special education who was not involved in responding to this complaint and is approved by the PED.</p>	August 8, 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</p>	<p>June 20, 2025</p> <p>July 8, 2025</p> <p>August 15, 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>
	The training shall address the following special education topics: 1. Meeting notice; and 2. IEP development, including (a) present levels, (b) measurable, individualized annual goals, and (c) special education and related services		the provision of training to those staff not in attendance.	

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/ Emily Adams

Emily Adams, Esq.

Complaint Investigator

Reviewed by:

/s/ Natalie Campbell

Natalie Campbell

Chief Counsel, Office of Special Education

Reviewed and approved by:

DocuSigned by:
Tyre Jenkins

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Dr. Tyre' D. Jenkins

Deputy Director, Office of Special Education