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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT  
OFFICE OF SPECIAL EDUCATION  
Complaint Resolution Report  
Albuquerque Public Schools  
Case No. 2425-50  
May 30, 2025**

**This Report requires corrective action. See pages 15-17.**

On March 31, 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.<sup>1</sup> The OSE has investigated the complaint and issues this report pursuant to 34 C.F.R. § 300.152(a)(5) and 6.31.2.13(H)(5)(b) NMAC.

**Conduct of the Complaint Investigation**

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

- review of the complaint and supporting documentation from complainant;

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

- 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 Parent, Advocate, Principal, Assistant Principal, Former Administrator, General Education Teacher, Art Teacher and Physical Education Teacher;
- an interview was scheduled with Student's Special Education Teacher but she resigned effective immediately on the day of the interview; and
- research of applicable legal authority.

### **Limits to the Investigation**

Federal regulations and state rules limit the investigation of state complaints to violations that occurred not more than one year prior to the date the complaint is received. 34 C.F.R. § 300.153(c); 6.31.2.13(H)(2)(d) NMAC. Any allegations related to professional or ethical misconduct by a licensed educator or related service provider, or allegations related to the Americans with Disabilities Act or Section 504 of the Rehabilitation Act are not within the jurisdiction of this complaint investigation and, as a result, were not investigated. For these reasons, any issue pertaining only to Gifted Education or issues pertaining to eligibility or provision of Section 504 services under the Rehabilitation Act of 1973 and its implementing regulations will not be addressed in this report.

### **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 to allow Student to make educational progress in the general education curriculum, in violation of 34 C.F.R. §§ 300.321, 300.324; 300.501(b)(c)(1) and 6.31.2.11(B)(1) and 6.31.2.13(C) NMAC specifically whether the IEP team:
  - a. Timely considered relevant information in determining an appropriate placement for the Student; and
  - b. Determined the need for additional or alternative supports and services for the Student;

2. Whether the District failed to follow the IDEA disciplinary procedures when disciplining Student for violations of the District's code of conduct, in violation of 34 C.F.R. § 300.530 and 6.31.2.11(F)(2) NMAC;
3. Whether the District completed a timely reevaluation in all suspected areas of disability in violation of 34 C.F.R. § 300.303; 34 C.F.R. § 300.304; 34 C.F.R. 300.305 and 6.31.2.10(C)(2); and
4. 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, who was a fifth grader during the 2024-2025 school year, was dual eligible under other health impaired (OHI) because of an attention deficit hyperactivity disorder (ADHD) diagnosis and gifted.
2. The August 15, 2024 IEP, the one in effect for most of the 2024-2025 school year, provided 150 minutes a week each in math, social skills and gifted services. In addition, Student receive 120 minutes of social work (SW) services. Student had a BIP and there were behavioral goals included in the IEP.
3. Records provided since 2022 indicate that there have been ongoing behavior concerns with this Student.
4. At the start of the 2024-2025 school year, Student's behaviors involved more physical actions and inappropriate language and actions, often of a sexualized nature.
5. Incident reports from the 2024-2025 school year stated that Student's maladaptive behaviors reported to the administration included battery, aggravated battery, assault, disruptive behavior and inappropriate language and actions.
6. Student spent the majority of the day in the general education classroom with pullouts for special education services, including SW services.
7. A functional behavior assessment (FBA) and behavior intervention plan (BIP) had been previously developed but after implementation of the BIP last year, Student still exhibited behaviors, often multiple times per day.
8. Many of Student's inappropriate behaviors were handled within the classroom and were not recorded on Synergy. The Teacher reported 3-4 incidents per day in the classroom. Incidents that were not referred to administration were handled through redirection and/or talking to Student.
9. During the first semester of school, Student had 22 behavioral incidents placed on Synergy that involved administration.

10. Following winter break, staff reported there was a change in the type of behavioral incidents. The frequency of incidents remained but physicality of behaviors such as hitting, kicking and throwing objects were decreasing but inappropriate language and actions continued. Defiant behavior and work refusal continued.
11. Student was placed on medication in February, 2025.
12. In the classroom, Student would not complete work unless Student received frequent redirection and attention from the Teacher. Student was social and could work successfully on projects in groups with peers but when completing low interest book or paper-pencil projects, Student would have difficulty completing work and needed frequent redirection and support.
13. Administration reported the District has a policy that discourages suspensions or school removals to address behavior and will suspend as a last resort or if there is serious incident or danger. Although many of Student's incidents involved battery or assault, Student did not receive suspensions.
14. During the fall semester, Student received multiple in school suspension (ISS) and eight days of out of school suspension (OSS).
15. On January 28, 2025, after a physical incident involving another student that resulted in a 2-day OSS for Student, a manifestation determination review (MDR) meeting was held. The MDR form noted Student had had 27 disciplinary referrals to date during the 2024-2025 school year.
16. At that meeting, it was determined that the behaviors were a manifestation of Student's disability. Student had been on a BIP. As a result of the decision that behaviors were a manifestation, the District planned to update the FBA and BIP. Parent signed consent for the updated FBA that day.
17. At that meeting and as noted on the MDR document, Parent requested an early three-year reevaluation of Student to obtain more information about why Student continued to exhibit maladaptive behaviors.
18. Documentation from the MDR form stated: "Information parent(s) would like to contribute regarding educational services: [Parent] would like to request that [Student's] reevaluation be held sooner than May. She also requested an increase in social work hours. She also shared that the BIP may not be effective as it is currently written and we will need to rewrite this. Student has also started therapy recently and will be seeing a psychiatrist soon."
19. The recommendation from the MDR indicated, "Review IEP, add services and support/develop/update FBA/BIP and or change placement. An IEP will be scheduled to consider increasing Social Work services, adding supervision in unstructured settings, an early re-evaluation, and an updated FBA/BIP."

20. The District did not provide a prior written notice (PWN) refusing or proposing the evaluation within fifteen days.
21. The Special Education Teacher indicated to Parent in text messages that the BIP needed to be completed first and the reevaluation request would likely be denied.
22. On January 30, 2025, Parent was informed through a text message that 10-15 days of data collection on behavior would be required before the FBA could be completed; then, the BIP would be revised.
23. Parent and Advocate expressed concern about completion of FBA and BIP without updated evaluation data. The District did not respond to this concern.
24. On March 8, 2025, Parent contacted District staff that Student was not allowed recess. The Social Worker stated in a message that she would follow up because that did not seem appropriate. Student was not allowed out for recess until after break.
25. Parent continued to express concerns that the evaluation had not been completed.
26. The next IEP meeting was scheduled for March 26, 2025. Parent and Advocate were in attendance. Parent expressed concerns about the delay in the evaluation data and the BIP. The meeting became quite heated and the meeting was stopped but an addendum was agreed to that increased social work minutes to 600 minutes per week.
27. In an April 3, 2025 text message to Parent, the Special Education Teacher stated, "the early re-evaluation request requires an IEP meeting first, because needs to be documented in a PWN first, our previous meeting, the Manifestation Determination, was explicitly to determine if his behavior was a manifestation of his disability." She later states, "unfortunately, we were not able to hold the IEP meeting as scheduled last week, so there will be no early re-evaluation request this year. However, as [Student] already has access to all accommodations/services he may need, and he has a diagnosis so his eligibility will remain the same, this re-eval request would have likely been denied." She then states the next meeting is the Middle School Progression IEP on April 30, 2025. The annual IEP will be in August and the responsibility of the middle school.
28. District notices and invitations were often unclear about the purpose of various meetings regarding this Student. The formal notice may indicate MET, IEP progress and/or transition but the Google meet notice or other messages from staff indicated other purposes such as transition meeting. For example, the Special Education Teacher informed Parent in an email that the March 26, 2025 meeting was a middle school transition IEP, "these usually go quickly." Then the following day, the day of the meeting, Parent was informed it was Student's annual IEP and to discuss the BIP. "We talked about having an early reevaluation, we must hold this meeting to put that decision in the PWN in order for that to occur." The annual IEP would be in August at the middle school but the annual IEP was later scheduled for April 17, 2025

29. At a meeting on April 17, 2025, transition (Student would be attending middle school in the fall) and annual IEP were discussed. At that meeting, the BIP which was dated May 8, 2025, was explained to Parent. In addition, the annual IEP was completed and it was agreed to complete a reevaluation of Student and consent was obtained.
30. Even after the implementation of the recent BIP, multiple teachers reported that Student continued to exhibit inappropriate behaviors in multiple classes. Between the absences and Student's behaviors, Student's grades have declined. For example, Student has an F in physical education because Student does not bring necessary supplies such as shoes or appropriate clothing or refuses to participate. In art, it depends on the day, but frequent absences and Student's lack of interest in a project has decreased work completion and grades. Student seating in art class is individualized because of the disruptive nature of behaviors.
31. On April 29, 2025, Student was involved in an incident with a scissors and threatened other students. No one was injured as a result of this incident, but it took some time for Student to deescalate and Student received an ISS.
32. After that incident, Parent who was concerned about Student's safety, kept Student home from school.
33. The three-year reevaluation, which was due in May of 2025, was started but has not been completed because Student has not been in school.
34. Parent reported that she has not been kept informed about Student and behaviors, even though she has requested daily updates. The District's incident reports list multiple incidents when the administration was in contact with Parent. However, not all incidents included parent contact.
35. Data following the April 17, 2025 BIP was requested. It was noted that there were thirty-four incidents marked in Synergy.
36. District provided a document from the Special Education Teacher that listed data collected between February 26, 2025 and March 14, 2025. Data was collected every half hour between 9:30 am and 2:30 pm. Student had incidents every half hour when in school. Target behavior was inappropriate/impulsive play.
37. It was noted that there was a reduction in severity of behaviors since the start of the 2024-2025 school year. "As of 5/9/25, only one behavior incident documented in Synergy since enacting BIP on 4/8/25."
38. The District allots 6-8 weeks to monitor effectiveness of BIP. The BIP has not been in place for that length of time and after the incident with the scissors, Student has not been in school.

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

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

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

- a. Timely considered relevant information in determining an appropriate placement for the Student; and**
- b. Determined the need for additional or alternative supports and services for the Student;**

Special education is “specially designed instruction provided at no cost to the parents, that is intended to meet the unique needs of a child with a disability.” 34 C.F.R. § 300.39(a)(1). This specialized designed instruction is adapting the content, methodology or delivery of instruction to address the unique needs of an individual child. 34 C.F.R. § 300.39(b)(3). These unique needs are more than academic needs and can include social, health and emotional needs. *County of San Diego v. California Special Education Hearing Office*, 93 F.3d 1458 (9<sup>th</sup> Cir. 1996).

IEPs are developed during an IEP meeting. The IEP team must consider the student’s strengths, any concerns of the parents, results of evaluations, and academic, developmental and functional needs of the student. 34 C.F.R. § 300.324(a)(1). Parents, as required members of the IEP team, must have adequate information to make informed decisions. 34 C.F.R. § 300.321(a)(1). As a Student’s needs change, the IEP team should convene and modify the IEP as appropriate to address changing needs. 34 C.F.R. § 300.324. An IEP must be implemented with all required components. 34 C.F.R. § 300.324(b)(ii)(a). However, only material failures of implementation will result in a denial of FAPE. *See Van Duyn v. Baker School District*. 5J, 502 F.3d 811, 822 (9<sup>th</sup> Cir. 2007).

Student is dual eligible as both OHI and gifted. Since Student first attended District schools, Student has exhibited ongoing behaviors that impact on Student’s and others learning. Student’s grades and work completion have been impacted by negative behaviors. Student has had a BIP in previous years, but negative behaviors continued.

This year, after eight days of OSS, the District convened a MDR meeting where it was determined that Student’s behaviors were a manifestation of Student’s disability. At that meeting, Parent requested that the reevaluation occur earlier than May to determine what was happening to help

with Student's behaviors. The District did not respond to that request through a PWN but the Special Education Teacher, in a text message to Parent, indicated that likely the reevaluation request would be denied nor could the evaluation happen until the BIP was completed. The recommendations in the MDR included both an IEP review and early re-evaluation. The next meeting was March 26, 2025 and consent for the reevaluation was obtained at the April 17, 2025 IEP meeting. Parent and Advocate, in multiple emails, expressed concerns about development of FBA and BIP without up-to-date evaluation data. The BIP was reviewed with the Parent at the April 17, 2025 meeting, almost three months after the MDR meeting. There is a question in the documents submitted of when the BIP was implemented; the Special Education Teacher's logs listed April 8, 2024, the BIP's date was May 8, 2025.

Student continued to exhibit behaviors this entire school year. Although the type of behaviors had changed over the course of the school year, the frequency had not changed and Student's behaviors were impacting Student's learning and that of others as noted by multiple teachers. The District was aware all year of Student's continuing struggles with behavior but the first IEP meeting was not scheduled until March 26, 2025. At the January 28, 2025 MDR meeting, recommendations were included but not implemented. At the March 26, 2025, IEP meeting, which ended early because of heated exchanges, Social Work (SW) services were increased from 120 minutes per week to 600 minutes per week. The next IEP meeting, the annual IEP meeting, was held on April 17, 2025, where consent for the earlier requested reevaluation was obtained.

#### **Issue 1a.**

The District knew Student continued to struggle with behavior throughout the 2024-2025 school year, yet did not convene an IEP meeting until March 26, 2025. They noted the type of behavior changed after winter break and maladaptive behaviors continued because Student was suspended for two days at the end of January for a physical altercation. Student also had an incident involving scissors in late April, 2025. Staff noted that Student continued to be disruptive and the learning of Student and others was impacted by Student's behaviors.

The investigation did not support the need for a change of placement.

**As to Issue 1a, the District is not cited.**

#### **Issue 1b.**

Additional SW services were added at the March 26, 2025, meeting but the updated BIP, which was required following the January 28, 2025, MDR, was not yet completed nor was the Parent's request for a reevaluation considered until the April 17, 2025, annual IEP meeting. In addition, the meeting notices, text messages and Google meet invited provided unclear information about the purpose of the scheduled meetings which could hamper Parent's meaningful participation in



the development of Student's IEP. Finally, The District's delays in convening an IEP meeting and disregard of Parent's concerns prevented consideration of any additional services and supports to assist Student in managing behavior to allow educational progress.

District failed to determine the need for additional or alternative supports and services for the Student in violation of laws cited above.

**As to Issue 1b, the District is cited.**

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

**Issue No. 2.**

**Whether the District failed to follow the IDEA disciplinary procedures when disciplining Student for violations of the District's code of conduct, in violation of 34 C.F.R. § 300.530 and 6.31.2.11(F)(2) NMAC;**

Under IDEA, a district may discipline a student for violation of a code of conduct resulting in removal or suspension from the student's educational program for not more than 10 school days, provided that all students, including non-disabled students, would be subject to the same discipline. 34 C.F.R. § 300.530(b); 6.31.2.11(F)(2) NMAC. A prior written notice (PWN) must be sent before the district proposes or refuses to initiate or change the identification, evaluation, educational placement or the provision of FAPE. 34 C.F.R. § 300.503(a).

When the placement of a special education student is changed because of a violation of the code of conduct, a manifestation determination must be completed. 34 C.F.R. 300.530(E). A change of placement occurs when the removal is more than 10 school days or there is a series of removals that constitute a pattern. 34 C.F.R. § 300.356(a). Removals that constitute a pattern are defined as such: (i) Because the series of removals total more than 10 school days in a school year; (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. 34 C.F.R. § 300.536.

If the behavior is a manifestation of the student's disability, then the student must be returned to the previous placement and must "receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.". 34 C.F.R. § 300.530(d).

A BIP is not defined within IDEA or the regulations except it may be required following a MDR and is often a part of the educational program that addresses behaviors that impact a student's learning. *Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions* (OSERS 2022). The BIP should include a description of the behaviors that interfere with learning and the positive behavioral supports that reinforce positive behavior and eliminate or reduce the negative behaviors that interfere with learning. *Id.*

Student's negative behaviors have been continuing since at least 2022 and have impacted Student's and others' learning. Student's behaviors, especially at the start of the 2024-2025 school year were physical in nature and the inappropriate language and actions were often sexualized. Twenty-two incidents in the Fall were reported to the administration. Many of the behaviors were so significant that the Principal became directly involved and Student received both ISS and OSS because of behaviors. Following a physical incident in January that resulted in two days of OSS, the District convened a MDR. The behaviors were a manifestation of Student's disability and the District was required to develop or revise an FBA and BIP. Since Student had been on a BIP developed the previous school year, the District obtained consent for the FBA on January 28, 2025, at the MDR meeting. The BIP was not finalized and presented to Parent until April 17, 2025, more than two months after the MDR. During that interim, Student continued to struggle with behavior, although physical behavior had decreased. Student was involved in a physical incident after the new BIP was implemented.

The District convened a MDR. The MDR team met and determined that the behavior was a manifestation of Student's disability, triggering the need for a revised FBA and BIP. The District promptly obtained consent from Parent for the updated FBA. Parent was informed that 10-15 days of observation were needed to complete the updated FBA and then the BIP would be revised. However, the BIP was not reviewed with Parent or implemented until April 17, 2025, more than two months after the MDR. Meanwhile, Student continued with negative behaviors.

The District convened the MDR; they considered the appropriate factors in determining that the behavior was a manifestation of Student's disability. They promptly requested and obtained consent for the updated FBA. Then, the District erred and violated law cited above because it did not timely implement behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.

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

### **Issue No. 3**

**Whether the District completed a timely reevaluation in all suspected areas of disability in violation of 34 C.F.R. § 300.303; 34 C.F.R. § 300.304; 34 C.F.R. 300.305 and 6.31.2.10(C)(2);**

Reevaluations must occur every three years unless the Parent and District agree that reevaluation is unnecessary. 34 C.F.R. § 300.303 (b). The purpose of a reevaluation is fourfold:

1. Does the child continue to have a disability and the educational needs of the child;
2. Present levels of academic achievement and developmental needs of the child;
3. Does the child continue to need special education and
4. Are there additional supports and service to ensure the child receives FAPE. 34 C.F.R. § 300.305 (a)(2).

Reevaluations do not have a specific timeframe for completion, but if a student is struggling such as to warrant a reevaluation, unreasonable delays may result in a denial of FAPE.

New Mexico law and IDEA provide that parents can request a reevaluation. New Mexico requires that when a parent, orally or in writing, requests a reevaluation, the District has 15 days to respond to the request. 6.31.2.10(C)and (D) NMAC. See also 34 C.F.R. § 300. 305.

Parent, at the MDR meeting, requested an early three-year reevaluation before it was due in May, 2025. The request was noted in the MDR documents but the District did not provide the response refusing or proposing a reevaluation within fifteen days of the request. The Special Education Teacher's text messages were inaccurate and did not meet the requirements of the required response. Consent was not obtained until April 17, 2025, more than two months after the request. To date, the evaluation has not been completed, in part, due to Student's absence from school.

District failed to complete a timely reevaluation in all suspected areas of disability in violation of laws cited above. District also failed to respond to Parent's request for evaluation, while not a noticed issue, this is a procedural violation noted pursuant to NMPED's general supervisory authority.

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

#### **Issue No. 4.**

**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.**

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. Students who are eligible for special education services are entitled to a FAPE. 34 C.F.R. § 300.101; 6.31.2.8 NMAC. LEAs are obligated to provide a FAPE to students within their jurisdiction who have been determined eligible for special education services. 34 C.F.R. § 300.17.

The provision of FAPE is administered through an IEP developed by the IEP team and implemented by the LEA. The IEP must be “reasonably calculated to enable the child to make progress appropriate in light of the child’s circumstances.” *Endrew F. V. Douglas County School Charter RE-1*, 137 S.Ct. 988, 999 (2017). Under certain circumstances, procedural errors can result in a denial of FAPE. 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).

Student was a child with a disability entitled to FAPE. Student has had a long history of behaviors that impact on Student’s learning and others. The District has tried many things to address Student’s behaviors over the years including SW services, BIPs and revised BIPS. Although the strategies have met with some success and the severe type of behaviors has declined, Teachers reported continuing daily behaviors that disrupt the learning environment. Special education services are not limited to academic needs but can also include behavior needs. In the Fall, Student had 22 behavior incidents that involved administration and Student had received multiple ISS and OSS before the MDR on January 28, 2025. The District was aware that the IEP was not reasonably calculated to enable the Student to make progress in light of Student’s circumstances. The MDR team listed recommendations at that January 28, 2025 MDR meeting but then did not follow through on the recommendations. The next IEP meeting was not held until March 26, 2025, which ended early because of a heated exchange between Parent and District. The next IEP meeting was April 17, 2025. There was a substantive denial of FAPE on this record.

There were also multiple instances of procedural errors including delays in convening IEP meetings when Student was not successful, failure to timely reevaluate Student and failure to

timely develop and implement a revised BIP. Student was failing classes, was suspended and not completing required work because of unmanaged behaviors. District knew or should have known of these concerns. These procedural errors resulted in the loss of an educational opportunity and deprived Student of educational benefit. It is also noted, although not an issue in the complaint, that the unclear meeting notices and conflicting messages may have prevented meaningful parental participation. Thus, the procedural errors on this record rose to the level of a denial of FAPE.

District's actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE), in violation of law cited above.

**As to Issue #4 the District is cited. Corrective Action is required.**

**Summary of Citations**

<b>IDEA/State Rule Provisions Violated</b>	<b>Description of Violation</b>
34 C.F.R. §§ 300.321, 300.324; 300.501(b)(c)(1) and 6.31.2.11(B)(1) and 6.31.2.13(C) NMAC	The District failed to develop and implement an IEP to allow Student to make educational progress in the general education curriculum, specifically the IEP team:  Failed to determine the need for additional or alternative supports and services for the Student.
34 C.F.R. § 300.530 and 6.31.2.11(F)(2) NMAC;	The District failed to follow the IDEA disciplinary procedures when disciplining Student for violations of the District's code of conduct. Specifically, the District failed to implement behavioral strategies to address the manifested behaviors.
34 C.F.R. § 300.303; 34 C.F.R. § 300.304; 34 C.F.R. 300.305 and 6.31.2.10(C)(2) and (D);	The District failed to complete a timely reevaluation in all suspected areas of disability.  The District failed to properly respond within 15 days to Parent's request for evaluation.
34 C.F.R. § 300.101 and 6.31.2.8 NMAC	The District's actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE).

**Required Actions and Deadlines**

**By June 30, 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](mailto:Yaling.Hedrick@ped.nm.gov)

The file on this complaint will remain open pending the PED's satisfaction that the required elements of this Corrective Action Plan are accomplished within the deadlines stated. The 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 May 5, 2026, and reported to the OSE no later than May 19, 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**

<b>Step No.</b>	<b><u>Actions Required by District</u></b>	<b><u>Complete Actions By</u></b>	<b><u>Documents Required to be Submitted to PED OSE</u></b>	<b><u>Document Due Date</u></b>
<b>1.</b>	As described above, the District will submit a written assurance to the PED OSE Corrective Action Plan Monitor that it will abide by the provisions of this Corrective Action Plan (CAP).	<b>June 16, 2025</b>	Written assurance	<b>June 30, 2025</b>
<b>2.</b>	The District Special Education Director and the District Principal shall meet with the PED OSE Education Administrator assigned to the District and the PED OSE CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the District plans to take to ensure that the violations are corrected and do not recur. The District Special Education Director shall be responsible for arranging this meeting with OSE.	<b>June 30, 2025</b>	Notes from meeting	<b>June 30, 2025</b>
<b>3.</b>	The District Special Education Director will meet with all staff to review the Complaint Resolution Report to ensure that those persons understand the complaint, the violations that were found, and the corrective actions that will be taken to address the violations.	<b>July 11, 2025</b>	Notes from meeting	<b>July 15, 2025</b>
<b>4.</b>	The District will continue to complete reevaluation as able based on access to Student.  If Parent declines reevaluation, District will provide declination in writing.	<b>Reevaluation will be completed within 30 days of Student being accessible to District for such to occur.</b>	Reevaluation documents  Or  Notice of declination for reevaluation in writing  Or	<b>Within 10 days of completion of steps of reevaluation or as timely depending on events (declination, unavailability)</b>

<b>Step No.</b>	<b><u>Actions Required by District</u></b>	<b><u>Complete Actions By</u></b>	<b><u>Documents Required to be Submitted to PED OSE</u></b>	<b><u>Document Due Date</u></b>
	If Parent does not make Student available for reevaluation, District will provide notice of such and NMPED will determine appropriate action to be taken.		Notice of student's unavailability	
<b>5.</b>	<p>The District shall convene a Facilitated IEP (FIEP) meeting. The FIEP meeting shall address:</p> <ol style="list-style-type: none"> <li>1. Behavioral data from the 2024-2025 school year along with information from the evaluations;</li> <li>2. Appropriate positive behavioral interventions and supports including revision of Student's BIP;</li> <li>3. Provision of compensatory education services hours required in Step 6.</li> </ol>	<b>August 7, 2025</b>	<ol style="list-style-type: none"> <li>1. Invitation to facilitated IEP meetings,</li> <li>2. IEP and BIP</li> <li>3. Prior Written Notices, and</li> <li>4. Agenda for facilitated IEP team meetings</li> </ol>	<b>August 14, 2025</b>
<b>6.</b>	48 hours of compensatory education services shall be provided in those areas where Student did not make progress on IEP goals relative to math, social skills and/or social work. These compensatory services are in addition to Student's special education services provided in the IEP. Services must be completed by the end of the 2 <sup>nd</sup> Quarter of the 2025-2026 school year.	<p><b>August 14, 2025</b></p> <p><b>Monthly, beginning September 1, 2025</b></p>	<p>Plan for provision of comprehensive education services</p> <p>Compensatory services logs provided monthly beginning August 2025.</p>	<p><b>August 14, 2025</b></p> <p><b>Monthly, beginning September 1, 2025</b></p>



<b>Step No.</b>	<b><u>Actions Required by District</u></b>	<b><u>Complete Actions By</u></b>	<b><u>Documents Required to be Submitted to PED OSE</u></b>	<b><u>Document Due Date</u></b>
7.	The District is required to provide training to school administrative and special education staff regarding the development and implementation of BIPS; the 15 day response rule when Parent(s) request evaluations/reevaluations; adequate meeting notices and PWNs. The training shall be provided by a person with expertise in special education who is approved by NMPED and may not be an individual involved in this matter.	<b>August 29, 2025</b>	Training materials, Attendance list of trainees	<b>September 15, 2025</b>

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

Investigated by:

/s/ Michele K. Bennett

Michele K. Bennett

Complaint Investigator

Reviewed by:

/s/ Natalie Campbell

Natalie Campbell, Esq.

Chief Counsel, Office of Special Education

Reviewed and approved by:

DocuSigned by:

Amanda DeBell

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Amanda DeBell

Deputy Cabinet Secretary, New Mexico Public Education Department