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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
OFFICE OF SPECIAL EDUCATION
Complaint Resolution Report
Rio Rancho Public Schools
Case No. C2425-52
June 3, 2025**

This Report does not require corrective action.

On April 4, 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;
- interviews with the Complainant/Parent, Student and relevant District Staff, including members of the Student's IEP team, general education teachers, special education teachers, the Student's counselor/transition specialist, twelfth grade principal and special education case manager; and
- research of applicable legal authority.

Limits to the Investigation

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

Issues for Investigation

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

1. Whether the District followed the appropriate disciplinary procedures for students with disabilities (SWD) when the Student was placed on in school suspension (ISS). 34 CFR § 300.530(f) and § 6.11.2.11 NMAC.

General Findings of Fact

1. The Student is currently in the twelfth grade at the District's High School. The Student enrolled in the District October 15, 2024. At that time, the Student was deficient in credits toward graduation and continues to be deficient in credits toward graduation for the 2024-25 school year.
2. The Student reached the age of majority on November 1, 2024.
3. The Student is eligible for special education services, qualifying under the categories of OHI (ADHD) and Specific Learning Disability (SLD). The Student's most recent triennial evaluation for special education eligibility was completed April 9, 2024. Eligibility under the classification of Autism was considered and was ruled out by the IEP team based on evaluation results.

4. During the relevant time for this complaint, two IEPs have been in place for the Student.
 - a. Both IEPs include goals in the areas of mathematics, career readiness and language arts, including a post-secondary transition plan indicating that the Student intends to enlist in the military or attend trade school with the goal of becoming a plumber or construction worker.
 - b. The Student attends English/Language Arts (ELA) and math in the special education classroom taught by a special education teacher. The Student attends science (forensics) and social studies (government and economics) classes in the general education class co-taught by a general education teacher and a special education teacher. The Student's planned course of study meets the requirements for standard graduation.
 - c. Accommodations on the Student's IEP include the following:
 - i. Flexible product outcomes
 - ii. Preferential seating
 - iii. Use agenda
 - iv. Access to notes
 - v. Opportunity to redo/reassess when grade is below 70%
 - vi. Sentence stems/starters
 - vii. Graphic organizers for drafting essays
 - viii. Checking for understanding
 - ix. Allowed to turn work in late without penalty and retake quizzes and assignments for a higher grade
 - x. Periodic check-ins during class to ensure that the Student is making progress and instructions are clear throughout
 - xi. Guided notes
 - xii. Cue to stay on task
 - xiii. Private discussion with Student
 - xiv. Praise to reinforce positive behaviors
 - xv. Chunking instructions for assignments
 - d. A Functional Behavioral Assessment was conducted during the 2023-24 school year and includes the following information:
 - i. Pattern Antecedent: When female teachers redirect to assigned task, attempt to provide 1:1 support, frequent checks for understanding, positive feedback, praise for appropriate behaviors, given additional time, rephrase written directions, or provide step by step directions
 - ii. Behavior: The Student will tell the teachers that they do not need help, begin task until the teacher walks away,

dismissive to directions unresponsive to positive reinforcement

- iii. Result: The Student will not complete assignments or engage in activities and is failing or in danger of failing several classes.

- e. The IEP states that the Student will follow the school-wide discipline plan.

5. District Tardy Policy:

- a. Tardy to School – Parents must call school prior to their student's arrival at school on the day of a tardy. Tardies will be excused or unexcused based on the same criteria as absences. Students who are tardy due to an appointment should follow the process outlined in the section titled "Appointments."
- b. Tardy to Class – Late arrival to class is an issue of serious concern. When students are tardy, both students and teachers are impacted. Teachers must stop instruction, repeat material or directions, and adjust attendance records while prompt students must wait while the distraction is addressed.
- c. Five minutes are allotted in the school schedule for students to travel between classes. Regular and frequent tardy sweeps will occur through which student tardiness will be documented and consequences assigned. Please refer to the discipline matrix for administrative action. Administration reserves the right to instruct teachers to lock their classroom doors at the sound of the tardy bell. Students may be instructed to either report to their own assistant principal's office for a tardy pass or they may be swept in the in-school suspension room (ISS) for processing where consequences will be assigned as appropriate.
- d. District Discipline Matrix for High Schools states that tardies are accumulated over the course of the entire semester and not per individual class. 10 tardies will result in 1 Day of ISS. Note: Any student caught in a tardy sweep is subject to consequences ranging from 1 day ASD to 1 day ISS dependent on individual circumstances unless student has a legitimate pass from staff or administration.

- 6. Incident reports document that on October 18, 2024, October 24, 2024, December 2, 2024, December 5, 2024, February 3, 2025, February 7, 2025, March 5, 2025, the Student was tardy to class after the 5-minute passing period. The Student was sent to the ISS room for the remainder of the class period on each of the days.

7. District policy “defines Ditching as an unexcused absence from one or more classes or missing long portions of class without an authorized excuse. Ditching will result in disciplinary consequences as listed in the Level II section of the discipline matrix. One day of ISS is the consequence for ditching off-campus for first offense.”
8. An incident report dated February 11, 2025, documents that the Student received one day of ISS on February 12, 2025 for Ditching Off Campus. The incident report states that the Student will use ISS to get caught up in all work. The parent was notified by email and the Student was sent home with a referral.

Discussion and Conclusions of Law

Issue No. 1

Whether the District followed the appropriate disciplinary procedures for students with disabilities (SWD) when the Student was placed on in school suspension (ISS). 34 CFR § 300.530(f) and § 6.11.2.11 NMAC.

The IDEA and New Mexico Special Education Rules state that school personnel may remove a student who violates a code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than 10 consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement). 34 CFR § 300.530(b).

Within 10 school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the student’s IEP team (as determined by the parent and the LEA) must conduct a manifestation determination review in accordance with the regulations. 34 CFR § 300.530(e), § 6.11.2.11 NMAC.

In school suspension can be a non-removal if it fits the definition of an Interim Alternative Educational Setting (IAES): What constitutes an appropriate IAES will depend on the circumstances of each individual case. An IAES must be selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP. 71 Federal Register 46722.

In this case, the Complainant asserts that the District erred when the Adult Student was placed in ISS, on February 12, 2025, for ditching. More specifically, the Complainant states that the

District was obligated to convene an IEP meeting and conduct a manifestation determination prior to disciplinary action of any kind or a change in placement.

The facts establish that the Student was indeed placed in ISS for one day, on February 12, 2025, as a consequence for “Ditching off Campus.” The incident report states that the Student will use this time to get caught up in all work. Additional incident reports show that the Student was also sent to ISS for a partial day (the remainder of 1st period) for being more than 5 minutes tardy to first period class on October 18, 2024, October 24, 2024, December 2, 2024, December 5, 2024, February 3, 2025, February 7, 2025 and March 5, 2025. The Parties do not dispute the number of days the Student was placed in ISS. District staff reported that the Student was pleasant and cooperative during the time spent in ISS and both District staff and the Student confirmed that teachers were present in ISS and that the Student made progress on missing assignments during ISS.

Because the Student received ISS on one full day and 7 partial days of not more than one class period per occurrence, the disciplinary actions did not reach the 10-day threshold and did not trigger the requirement to conduct a manifestation determination. Therefore, it is not necessary to establish whether the particular circumstances of Student’s ISS constituted day(s) of removal.

The District followed the appropriate disciplinary procedures for students with disabilities (SWD) and did not violate Part B of the IDEA.

As to Issue No. 1, the District is not cited.

This report constitutes the New Mexico Public Education Department’s final decision regarding this complaint.

Investigated by:

/s/ Lisa Arbogast

Lisa Arbogast

Complaint Investigator


Reviewed by:

/s/ Natalie Campbell

Natalie Campbell, Esq.

Chief Counsel, Office of Special Education

Reviewed and approved by:

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Amanda DeBell

Deputy Cabinet Secretary, New Mexico Public Education Department