



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
Las Cruces Public Schools
Case No.2425-53
June 17, 2025**

This Report requires corrective action. See pages 25-28

On April 18, 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 Special Education Director, Special Education Teacher, Homebound Teacher, Homebound Teacher of the Visually Impaired, Board Certified Behavioral Analyst (BCBA), Special Education Lead Teacher, Special Education Administrator at high school;
- Parent with Interpreter and Advocate; and
- research of applicable legal authority.

Limits to the Investigation

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

Issues for Investigation

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

1. Whether the District failed to develop and implement an IEP that allowed Student to make progress and receive a free appropriate public education (FAPE), in violation of 34 C.F.R. §§ 300.320-300.328 and 6.31.2.11(B)(1) NMAC; specifically, whether the District;
 - a. Failed to provide transportation as a related service under the IEP;
 - b. Failed to consistently provide all related services required by the IEP;
 - c. Failed to timely conduct a Functional Behavior Assessment (FBA) and develop a Behavior Intervention Plan (BIP) to address Student's aggressive behaviors;
 - d. Failed to consider and provide positive behavior supports and services to assist Student in managing inappropriate behaviors;
 - e. Failed to consider and provide other supports and services to allow Student to successfully attend school for a full school day;

- f. Failed to reconvene IEP team when Student was not making progress;
 - g. Failed to ensure Student was receiving services with peers in consideration of LRE requirements; and
 - h. Failed to provide special education services and supports for a full school day.
- 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; specifically, whether the District:
 - a. Improperly restrained and/or secluded Student for maladaptive behaviors;
 - b. Failed to complete the required disciplinary procedures including manifestation determination reviews;
 - c. Made an improper referral to law enforcement when Student was acting out;
 - d. Sent Student home early for misbehaviors rather than reconvene the IEP team to address Student's needs; and
 - e. Threatened to disenroll Student because of aggressive behaviors.
- 3. Whether the District's actions and/or omissions towards the named Students resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC.

General Findings of Fact

General Background Information

1. Student has attended District schools since early childhood services. Before May 2024, Student attended school full time.
2. Student has been eligible for transportation services but has had issues with behavior during transportation.
3. On the Present Levels of Academic Achievement and Functional Performance (PLAAFP) on the May 12, 2022, IEP, Student was able to match the letters in name, match 15-20 words, match pictures to objects and identify 11 pictures. Student was beginning to trace single letter, count 1-4 and identify 4 shapes, exchange \$1 to purchase items, model actions with objects.
4. It was reported on the IEP that Student was rarely aggressive, and the social worker reported a decreased in frustration and aggression when visuals were used. Student had

demonstrated an increase in time on academic and non-preferred tasks from 2 minutes to 15 minutes.

- 5. Last school year, Student would, without warning, become aggressive and hit staff and peers or throw objects. Student was restricted from bringing items to school because Student would throw the objects at others.
- 6. While Student attended District school during the 2023-2024 school year, it was decided at a May 8, 2024 IEP meeting that Student would attend school on modified schedule of one hour and 30 minutes a day with a corresponding reduction in special education and related services because of aggression.
- 7. Starting in May 2024 through October 2024 Student attended in school instruction for 450 minutes per week. Then in October, Student’s minutes were decreased by 15 minutes for a total of 375 minutes per week of in-school instruction. During those times, Student was to receive all special education and related services. Student did not receive all the required services.
- 8. Parents objected to the reduced day, but that was implemented for the remainder of the 2023-2024 and at the start of the 2024-2025 school year. A functional behavior assessment (FBA) was completed for Student in the spring of the 2022-2023 school year. The targeted behavior in the FBA was physical aggression. The purpose of the behavior was to obtain a preferred item, seek out adult attention or gain access to tangibles.
- 9. A behavior intervention plan (BIP) was developed on October 28, 2022. It was not effective and has been revised on May 1, 2023, February 29, 2024, and August 28, 2024.
- 10.

Table of Service Minutes for Student					
Dates	April 18, 2024 – May 2, 2024	May 3, 2024 – October 16, 2024	October 17, 2024 – December 11, 2024	December 12, 2024– April 13, 2025	April 14, 2024- April 18, 2025
Minutes Student was in school per week	1800	450	375	450	585

Amount of minutes Student was to receive special education and related services per week according to IEP	1800	456.11	456.11	787.5 * homebound services of 300 minutes per week were added but not implemented until April, 2025	787.5
---	------	--------	--------	--	-------

2024 -2025 School Year

11. Student was a ninth grader during the 2024-2025 school year. Student had multiple disabilities that significantly impact learning including intellectual impairment, speech and language impairment, visual impairment and hearing loss. Student also would become aggressive toward other students and staff without warning, often when asked to complete non-preferred or academic tasks.
12. Student has glasses and hearing aids but did not always use them.
13. The primary language for the family is Spanish and Student was more comfortable with Spanish but does understand English. Most instruction at school was in English.
14. Student is nonverbal and ineffectively used an alternative augmentative communication device (AACD). The District has attempted numerous communication systems including picture exchange communication system (PEX), American Sign Language, cards, and computer-generated language without success. Student has developed and used some of Student created signs to communicate. Teachers have reported that although Student is nonverbal, Student was able to communicate with them, and they were aware when Student had reached a tolerance level for a particular task.
15. When Student is at school, Student works on life skills, motor skills and real-life activities where Student is most successful.
16. Student was not able to write name or even initials, name colors, letters or complete basic math skills.
17. Student does understand the value of a dollar and was motivated by earning money.
18. Beginning in December, 2024, Student's in school time was increased by 15 minutes. Student attended school for one- and one-half hours per day, after lunch.
19. The IEP team met May 8, 2024, October 16, 2024, November 11, 2024, December 11, 2024, May 2, 2025, and May 7, 2025. There has not been a revision of the BIP this year.

20. During those IEP meetings there were numerous discussions about Student's behaviors, poor attendance and academic stamina for learning.
21. The October 16, 2024, PWN indicated that Student had to attend 10 days with less than 50% negative behaviors before time at school increased.
22. Staff reported that they tried a token economy, positive praise, structure, breaks and other attempts but those are not included in the IEP or supporting documents as justification for a modified day or homebound services.
23. A board-certified behavior analyst (BCBA) has worked with Student but although Student has made some progress with eliminating aggression, it has not been significant enough to consider full time attendance for Student.
24. There was a behavior support plan dated October 22, 2024, from Change of Heart behavioral services that outlined a plan to address Student's behaviors. It is not clear if the District implemented that plan. The October 22, 2024, Hart behavior report indicated that Student was doing well in school at the beginning of the 2024-2025 school year.
25. The BCBA shared records showing a decline in negative behaviors for multiple months during the 2024-2025 school year but no increase in school attendance.
26. At the December 11, 2024, IEP meeting, the IEP team determined that a modified day of one hour and 30 minutes in school instruction and homebound services would be implemented to increase attendance and academic stamina. Neither the IEP nor supporting documents from any of the IEP meetings explain why Student needed the more restrictive placement.
27. The previous Special Education Director in a February 16, 2024, email to the Principal, noted that specific written documentation regarding consideration of a modified day to include interventions/strategies implemented, BIP, revisions and reviews, and other factors related to Student's performance at school. That information was not provided after repeated requests, so it is assumed that the information was not collected.
28. The IEP team has agreed to keep the modified schedule because "[Student] required maximum special education support and services in a self-contained classroom."
29. The Special Education Teacher reported that when she used real tools for language and math tasks, Student was engaged and there was no physical aggression unlike before Christmas break, but Student started being aggressive again in April 2025 but she could not ascertain a reason but reported it to administration.
30. The next IEP meeting for this Student was May 2, 2025.
31. When Student was in school, Student was in a self-contained classroom with a teacher and 1-1 paraeducator and no other students. At the start of the school year, Student came for services in the afternoon. Until recently, Student had no contact with peers.
32. During the time at school, Student was to receive 375 minutes of special education services, 30 minutes a week each for psychological services, speech services and adaptive

physical education. The time required to receive these services totaled 465 minutes per week, but Student was only in school 450 minutes per week.

33. Service logs were provided to the Investigator; the logs indicated that Student was frequently absent, and direct services were not consistently provided weekly as required by the IEP because providers were unavailable, consulting with other staff or Student's behavior reduced services.
34. Student's IEP also indicated that Student would receive 15 minutes a month of physical therapy, 60 minutes a month for visual impairment services and 5 minutes a month of consultation. All these services were consultative and in addition to the 465 minutes of in school services.
35. For the 2023-2024 and 2024-2025 school year, the IEP team determined that Student needed transportation as a related service to benefit from the IEP. Student needed specialized transportation with an aide to access school. Initially, the District transported Student but after an incident on the bus, Student was not allowed on the bus. For the 2024-2025 school year, Parent reported that they were required to transport Student. Parents have transported since then. Neither a PWN nor other documentation provided any agreement that Parents would transport Student. The District has indicated they would pay mileage but that has not happened yet.
36. During the District's staffing on this Student prior to the December 11, 2024, IEP meeting, there was discussion about homebound services. Staff were frustrated and could not get Parent to follow through with recommendations at home. The District had tried to link behaviors at home to school but that has been difficult especially with the frequent absences.
37. Parent reported that Student does not behave this way at home. Parent was frequently called to pick up Student because of aggressive behavior and Student was threatened for dismissal or referral to law enforcement if Student was not promptly picked up at school. Records do indicate there were no law enforcement referrals or dismissals but the District failed to respond to those allegations in their response. Student's development delay (DD) support person corroborated the repeated contacts to pick up Student. Parent reported that the calls would continue on the way to the school.
38. Student was restrained on at least one occasion on October 25, 2024, for aggressive behaviors as noted on December 11, 2024, PWN.
39. At the December 11, 2024, IEP, Student was to receive 300 minutes a week in homebound services. Homebound services did not begin until April 14, 2025.
40. Two Homebound Teachers provided services to Student three days a week for at most 45 minutes per session. When homebound services first began, Student was not able to tolerate more than 10-15 minutes of instruction. Since that time, Student has been able to focus and engage in instruction for 45 minutes per session. At most, Student received

135 minutes of homebound services per week. The remaining minutes of homebound services provided for in the IEP were planning time for the homebound teachers.

41. Student's Homebound Teachers know some Spanish but relied on the sister for interpreting during homebound services. The Special Education Teacher is bilingual but most instruction is provided in English.
42. The May 2, 2025, IEP indicated that Student would be with peers at lunch/breakfast, library and assemblies. Starting after the May 7, 2025, IEP, Student spent 15 minutes at lunch with peers but no other contact with peers. Prior to that, Student had no contact with peers during the school day.
43. On May 12, 2025, the schedule for Student was changed to earlier in the day, 11:45 to 1:15 pm every day. The Special Education Teacher reported Student would be at school during lunch but still was eating alone in the self-contained classroom.
44. Recently, staff reported that Student will go into another special education classroom for 10-15 minutes to have contact with peers at lunch time. However, these students, who have had previous contact with Student and have significant needs, have experienced trauma with Student's visits.
45. Student's three-year reevaluation was due this year. Student was not reevaluated in any areas; the team relied on the 2022 evaluation results to determine continued eligibility and service needs. The psychologist completed the Vineland and Student scored low in all domains.
46. Although there was not a consistent pattern for Student's inappropriate behavior, it was noted that Student was more likely to act out when asked to complete paper pencil tasks or activities that Student did not want to do. Student has reported a dislike of school and not wanting to attend.
47. Student has demonstrated engagement and progress on task completion when the tasks are physical, hands on and relevant to Student such as building pipe objects, basic cooking and following recipes, identifying and using tools.
48. Student responds well to parents and Student helps Father who works in construction.
49. Attendance has been an issue for this Student. This year, Student has been absent 43 days at the start of May. Last year, Student was absent 48 days. The BIP does not address attendance concerns.
50. The May 2, 2025, IEP noted that Student "benefits from tasks that build fine motor skills offered structural choices and self-directed learning."
51. Some steps the District tried with Student included more structure in unstructured activities, escorts and communication tools.
52. There was no clear evidence of all the supports and services the District attempted prior to initiating homebound services nor was there a clear plan for how Student would return to school full time.

53. In the May 2, 2025, IEP, Student would receive transportation as a related service.
54. Prior to implementation of homebound services, Parent was often contacted to pick up Student from school.
55. By the beginning of May, Student had received 8 days of out of school suspension (OSS). Student had received 10 days of OSS by the end of May. A manifestation determination review (MDR) was conducted. The Investigator requested the records for the MDR, but they were not provided. The District's response indicated that Student did not reach the ten-day threshold warranting an MDR. Student was subject to early dismissals.
56. Since homebound services were implemented, Student has received at most 585 minutes of direct special education and related services per week, significantly less than the 1800 minutes of instruction per week for regular education students.
57. The IEP team determined that homebound was appropriate because of academic stamina and poor attendance. There was nothing in the IEP or supporting documents about steps the District had taken to increase attendance. The Special Education Teacher reported that until Student attended 85% of the time, and had less than 50% negative behaviors, the time at school would not be increased.
58. When asked, the Homebound Teachers indicated that academic stamina was not because of fatigue, inability to complete the work or work was too difficult but rather Student was not engaged in learning and with extensive hands-on activities they were able to engage Student in learning for 45 minutes a session.
59. Staff this year reported that Student was not engaged at school and only for 45 minutes during homebound services, but Student was compliant and focused during the two-hour May 2, 2025 IEP meeting.
60. There have been changes in staff that work with Student. The Special Education Teacher started working with Student in October and was reassigned in May. The 1-1 paraeducator is constant but the other paraeducators that work with Student are on a rotating schedule, in part, to demonstrate to Student that expectations are for all situations at school and not with particular staff. Student may have three or more adults with Student during school.
61. One of the Homebound Teachers has previously had contact with Student at school. She reported that Student, when in school, needed constant supervision, was aggressive without warning and safety for other students and staff was a primary issue.
62. When Student received homebound services, Student was in control and could stop or walk away. Parent was present and redirected Student when Student disengaged. There was no down time during homebound services, as one activity was completed or was not working, a new activity was implemented. Student did better with structure but at school, it depended on the day of whether Student behaved and worked.

63. Home was safe, comfortable, less stressful for Student. Staff stated It was important to develop a relationship with Student for Student to be engaged.
64. Physical aggression was not an issue during homebound services. The Homebound Teachers believed Student's behaviors were a combination of frustration and choice. When Student was frustrated and wanted to hurt someone, there were nonverbal cues that Homebound Teachers could read.
65. Staff reported Student struggled with peer interactions and social skills. Student has not been able to implement positive behaviors from home to school. Student acted out more at school than home.
66. Parent has shared that Student participates successfully with church and worship activities but the District reported it is unclear how Student does out in the community since Student cannot get off the bus and enter school without four staff supporting Student.
67. Parent reported that Student was overwhelmed by all the adults that are with Student; Student misses interactions with peers and does not know how to express feelings when Student is excited to see peers.
68. The Homebound Teachers report Student can become frustrated because of language limitations. Over the course of their time with Student, they have reported that Student was getting better at handling frustration when tasks are language based or nonpreferred task demands.
69. The plan was to meet every 4-6 weeks to review Student's progress on attendance and academic stamina and increase the time in school by 15-minute increments as warranted. In April, Student was able to demonstrate 45 minutes per session during homebound services but there has been no increase in school time nor did the IEP team meet between December 2, 2024, and May 2, 2025.
70. According to the May 2, 2025, IEP, Student is scheduled to graduate with an ability diploma in May, 2028. Student has made minimal progress on goals but has not mastered any goals.

District's Failure to Cooperate with Investigation

At the start of this investigation, the District was asked to provide numerous educational records pertaining to Student no later than May 16, 2025.

The Investigator requested that all documentation that was missing or not provided be produced. District did not make further production.

As the investigator discovered issues during the investigation and requested documentation, it was not provided (e.g. Manifestation Determination Report and process documents).

As the District knows, a final report on a state complaint is required to be issued within 60 days of the date of filing. District made it extremely difficult to have necessary documents to conduct investigation. Several necessary documents were received from Parent and not District.

Pursuant to 34 C.F.R. 300.211, a district must provide the state agency with the information necessary for the state agency to carry out its duties under the IDEA.

As evidenced above, District appeared to be less than willing to provide the requested documentation needed to investigate the allegations made in the complaint and learned during the investigation.

District's non-cooperation and/or less than timely disclosure violates 34 C.F.R. 300.211.

This will serve as District's notice that if any complaints are filed against the District in the future, and there appears to be an unwillingness to cooperate, the District will be cited and will be required to complete corrective action.

Discussion and Conclusions of Law

Issue No. 1

Whether the District failed to develop and implement an IEP that allowed Student to make progress and receive a free appropriate public education (FAPE), in violation of 34 C.F.R. §§ 300.320-300.328 and 6.31.2.11(B)(1) NMAC; specifically, whether the District;

- a. Failed to provide transportation as a related service under the IEP;**
- b. Failed to consistently provide all related services required by the IEP;**
- c. Failed to timely conduct a Functional Behavior Assessment (FBA) and develop a Behavior Intervention Plan (BIP) to address Student's aggressive behaviors;**
- d. Failed to consider and provide positive behavior supports and services to assist Student in managing inappropriate behaviors; and**
- e. Failed to consider and provide other supports and services to allow Student to successfully attend school for a full school day;**
- f. Failed to reconvene IEP team when Student was not making progress;**

g. Failed to ensure Student was receiving services with peers in consideration of LRE requirements; and

h. Failed to provide special education services and supports for a full school day.

Students who are eligible for special education services are entitled to a free appropriate public education (FAPE). 34 C.F.R. § 300.101; 6.31.2.8 NMAC. A District is obligated to provide a FAPE to students within their jurisdiction who have been determined eligible for special education services. 34 C.F.R. § 300.17. 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 (9th 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).

When the IEP team determines that transportation as a related service is required for a student to receive a free appropriate public education (FAPE), it must be provided to the family at no cost. 34 C.F.R. § 300.34(c)(16). The IEP team determines if transportation is needed and how transportation should be provided. *Questions and Answers on Servicing Children with Disabilities Eligible for Transportation*, 53 IDELR 268 (OSERS 2009). The need for transportation must be made on a case-by-case basis. 34 C.F.R. §§ 300.320-300.324. Parents cannot be charged fees for a needed related service. Requiring the parent to provide transportation must be mutually agreeable. *Letter to Hamilton*, 25 IDELR 520 (OSEP 1996); 34 C.F.R. § 300.16(b)(14). The IEP should describe the needed transportation services and explain the need for transportation services. 34 C.F.R. § 300.107; 34 C.F.R. § 300.117; *see also* 71 Fed. Reg. 46, 576 (2006).

Behaviors that inhibit a child’s learning or that of others should be addressed on the IEP or through a BIP developed by the IEP team. Negative behaviors are not a justification for shortening a school day. *Alleghany County (NC) Schools*, 69 IDELR 193 (OCR 2016). The IEP team must determine the need for interventions, supports and strategies. 71 Fed. Reg. 46, 683 (2006).

Excessive absences should be addressed as behavior issues or through a BIP. *Huron School District*, 68 IDELR 178 (SEA SD, 2016); *District of Columbia Public Schools*, 120 LRP 179 (SEA DC, 2019).

Shortening a student's school day should be a rare occurrence and for a limited period. *In re: Student with a Disability*, 121 LRP 1039 (SEA WI 2021). The IEP team must determine that the shortened school day is necessary for student to receive FAPE. *Christopher M. v. Corpus Christi Independent School District*, 933 F2d 990, 17 IDELR 990 (5th Cir. 1991). Convenience is not sufficient to shorten a school day. *Osseo Area School Independent School District No. 279 v. AJT*, 81 IDELR 256 (MI 2000). The IEP team must document on the IEP, the services and supports needed to justify the shortened day. Aggression, lack of academic stamina and resistance to non-preferred tasks are insufficient reasons to shorten a student's school day. *In re: Student with a Disability*, 82 IDELR 44 (SEA WI 2022). The IEP documentation must include all steps and placement options that the District considered and/or implemented before shortening the school day. The IEP must also include a plan for returning the student to a full school day of attendance. 34 C.F.R. § 300.116. While parents/guardians have input in development of the IEP, it is ultimately the responsibility of the District to develop an IEP that provides Student a FAPE. 34 C.F.R. § 300.116.

a. Failed to provide transportation as a related service under the IEP;

The IEP team had determined that Student was entitled to transportation. The Student needed specialized transportation. When Student misbehaved during transportation, the Student was removed from District transportation. From that time on, Parent transported Student but District indicated it would pay mileage, which has not yet happened. The District and Parent disagreed on whether Parent agreed to transport Student with mileage reimbursement. There was no documentation provided that Parent consented to transport Student except for a statement on the PWN. That is not sufficient agreement regarding transportation responsibilities. The IEP team at the last IEP meeting agreed that Student needed transportation as a related service to benefit from educational services. There was no evidence that the family agreed to transport Student in lieu of District transportation. Rather when the District stopped transportation for Student, the family reported they had no choice but to transport with mileage reimbursement. The District erred in not providing transportation to Student.

b. Failed to consistently provide all related services required by the IEP;

Under the May 8, 2024, IEP, Student was to receive 465 minutes of specialized instruction weekly including additional services from PT, audiological and vision consulting services. From October until December, Student was in school 375 minutes a week. Special and related service

requirements have not changed. Beginning in December, until homebound services were implemented on April 14, 2025, Student was only at school for 450 minutes per week. Every week, Student's special education services were shortchanged by at least fifteen minutes. Service logs from the providers indicate that services were not provided on a weekly basis as required by the IEP. Often, Student did not receive services because of absences, there were also weeks where providers were unavailable or consultation or collaboration occurred instead of direct services. Even when services were provided, services may be shortened because of Student's behaviors. It is not clear whether the missing service minutes were from special education or related services. The District never provided 300 minutes a week of homebound services which were approved in December but not implemented until April 2025. The District failed to consistently provide all related services.

c. Failed to timely conduct a Functional Behavior Assessment (FBA) and develop a Behavior Intervention Plan (BIP) to address Student's aggressive behaviors;

An FBA was developed in the Spring of 2022. In that FBA, the targeted behavior was physical aggression, and the function of Student's behavior was to obtain a preferred object, tangibles or attention from adults. That FBA has never been updated. Testimony from staff agreed that the function of Student's behavior was still avoidance or escape. Since the first BIP was developed in October of 2022, the BIPs have been revised 4 times but although the instances of physical aggression have declined during certain months, the physical aggression is still occurring with enough frequency so that Student's time in school has not been increased from one and one-half hour per day. The last revision of the BIP was in August of 2024 when Student was at school for one hour and 30 minutes a day and had not yet received homebound services. Part of the explanation for the modified day was Student's physical aggression and academic stamina. In October 2024, Student's time at school was decreased by 15 minutes. In April 2025, Student at most received 135 minutes of 300 minutes of homebound service weekly. Student's physical aggression and absenteeism was preventing Student's return to school full time. The May 2, 2024, PWN stated that for an increase in time at school, Student needed to have more than 50% positive interactions (no physical aggression) and 85% attendance. This had been discussed during other IEP meetings and staffings.

Clearly, the District's plan to manage Student's behaviors and increase attendance has not been effective, yet they have not convened the IEP team to modify the BIP or provide other services and supports to address Student's behaviors and allow full time attendance. Although Student was due for a three-year reevaluation this year, there were no updated evaluations in speech, psychological or academic. Basic skills as measured by the Vineland were completed and Student scored consistently low in all domains. It has not been determined what impact the language in the home (Spanish), Student's visual, auditory and language deficits (Student wears glasses,

hearing aids and is nonverbal) and intellectual disability affect Student's behaviors and attendance which are the District's explanation for the shortened day and homebound services. Student is still missing significant instruction time but the IEP team has not met to revise the BIP or IEP. The District erred and such violates IDEA Part B.

d. Failed to consider and provide positive behavior supports and services to assist Student in managing inappropriate behaviors;

See Issue 1c. A February 16, 2024, email from the previous Special Education Director to the Principal indicated that the District needed to document steps that had been taken to address Student's needs before consideration of modified day or homebound services. Those records were never provided even after repeated follow-up requests. There was a behavior support plan from Change of Heart services that outlined a plan to address Student's behaviors. It is not clear if the District implemented that plan. The District has a BCBA that shared records showing a decline in negative behaviors for multiple months during the 2024-2025 school year but not consistent enough to increase in school time. Staff reported that they tried a token economy, positive praise, structure, breaks and other attempts but those are not included in the IEP or supporting documents as justification for a modified day or homebound services. The records provided by the District do not outline any additional supports or services attempted before the IEP team determined that Student needed a modified schedule. Although the modified schedule was to be reviewed every 4-6 weeks, there have been no IEP meetings since December to consider what other services and supports would be available to assist this Student and have Student return to full time attendance at school. Even after Student was able to demonstrate 45 minutes of continuous engagement with homebound services, the time at school was not increased. The BIP has not been revised to provide positive behavior strategies or supports to assist Student. The District failed to address the behavioral needs of this Student which prevented access to educational programming; a violation of IDEA Part B.

e. Failed to consider and provide other supports and services to allow Student to successfully attend school for a full school day;

Regular education students are in school for 6 hours a day or 1800 minutes per week. Student, who, according to the District, has significant multiple disabilities and whose IEP states "[Student] required maximum special education support and services in a self-contained classroom," has an IEP only providing 465 minutes of services per week until Homebound services were added April 14, 2025. Homebound services were agreed to at the December, 2024 IEP yet were not initiated until April 14, 2025.

Student was to receive 300 minutes of homebound services a week (60 minutes per day), yet Student receives only 135 minutes per week (up to 45 minutes each session for three sessions

per week), even though that is where Student is most successful. The 45-minute sessions did not happen until the end of April. Prior to that, Student would receive services as tolerated - 15 minutes three times per week. Weekly, Student misses 15 minutes of required in school services under the IEP. Provider logs indicate that consistent services were not available because of Student absences and/or provider unavailability or consultation.

Student has made minimal progress on the IEP goals and has not mastered any. Student cannot write name, initials, or do basic math, writing or reading. Student is nonverbal and does not have an effective communication system. Student, who has an intellectual disability and is in a self-contained classroom without peers is lacking in basic academic and social skills required for future success. Student's family are Spanish speakers and Student has both receptive and expressive language deficits and does not have a consistent communication system.

Neither the IEP nor the supporting documents provided information on what supports and services the District attempted before the IEP team determined that a modified day and homebound services with no access to peers was an appropriate placement for Student. The recent reevaluation relied on assessments from 2022 with the exception of the Vineland, yet Student is making minimal progress and, according to the District, cannot attend school full time because of aggressive behaviors and academic stamina. There was no justification on the May 2, 2025, IEP or other IEPs for the need for modified schedule or homebound services for this particular Student or what additional services and supports may be appropriate. Under certain circumstances, homebound services and modified days may be appropriate but because homebound and modified days are a more restrictive placement, the District must document the steps taken before homebound is implemented and a plan for Student's return to school full time. There is no clear plan for Student's return to full time school. The District stated concerns about Student's frequent absences but when Student attends school, Student, at most, receives one hour and 30 minutes of a 6-hour day. The BIP does not address attendance concerns. Student cannot learn when not in school and the District has failed to provide services and supports for Student to be successful at school, violating IDEA Part B.

f. Failed to reconvene IEP team when Student was not making progress;

This school year was not the first year that Student became physically aggressive at school. Student was on a shortened day part of last year as well. Student cannot read, write, communicate effectively and continues to be aggressive. There was no IEP meeting between December and May even though Student was demonstrating some change in physical aggression and stamina but still not achieving progress on goals. The IEP team in December, 2024 continued the modified day and included homebound services to address chronic absenteeism and academic stamina. The Homebound Teachers indicated that it was not fatigue or inability to complete the work that was the problem but Student was not engaged. Student went from 15

minutes of homebound services in a session to 45 minutes in a session. The IEP team met on December 11, 2004 and then did not meet again to discuss Student's progress, or lack thereof, to determine what other services and supports could be provided to assist Student until May 2, 2025. The District agreed to meet every 4-6 weeks while Student was receiving homebound services and a modified day but that did not happen. The District did not promptly convene the IEP team to determine what else could be done to assist this Student to make progress, violating IDEA Part B.

g. Failed to ensure Student was receiving services with peers in consideration of LRE requirements;

See issue e. Student was on a modified day and attended school for 90 minutes every day or 450 minutes of in school instruction per week. Beginning in May, during that 90-minute period, Student had lunch, not always with peers. When the IEP team considered the modified day and homebound services, they did not address LRE requirements. When Student was at school, Student was in a classroom with at least two adults, often up to four adults and no peers. The IEP stated that Student would be with peers at lunch/breakfast, library and assemblies. For the majority of the year, Student was not at school during lunch or breakfast and did not go to the library or participate in assemblies or field trips. Beginning in May, Student has gone to another classroom for 10-15 minutes of time with peers during lunch but that has not been successful, because the other students, with their own needs, have trauma with a virtual stranger in their midst. The District failed to consider LRE requirements in proposing the modified day and homebound schedule for this Student. This was a violation of Part B of IDEA.

h. Failed to provide special education services and supports for a full school day.

For the entire school year, Student has not received the services required by the IEP much less received a full day of instruction. The District proposed because of Student's absences, physical aggression and academic stamina that a modified day would be appropriate for Student. Student's IEP provides 765 minutes of service per week when a typical student receives 1800 minutes per week. Student does not even receive all 765 minutes required by the IEP. The District failed to provide services and supports to allow Student a full day of instruction and failed to implement the IEP as written, violating IDEA Part B.

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

Issue 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; specifically, whether the District:

- a. Improperly restrained and/or secluded Student for maladaptive behaviors;**
- b. Failed to complete the required disciplinary procedures including manifestation determination reviews;**
- c. Made an improper referral to law enforcement when Student was acting out;**
- d. Sent Student home early for misbehaviors rather than reconvene the IEP team to address Student's needs;**
- e. Threatened to disenroll Student because of aggressive behaviors;**

When a student is removed from school for behavior reasons, it is considered a disciplinary removal and can trigger the District's responsibility to conduct an MDR. The classification of the removal from the school is not the deciding factor; shortening the school day for a student is a repeated, daily exclusion from school (e.g., parents are asked to pick up early or student leaves school early because of behaviors) which qualify as disciplinary removals that count toward the ten days. *School District of Flint*, 66 IDELR 192 (SEA MI 2015); *Letter to Mason*, 72 IDELR 192 (July 27, 2018); *see also* 34 C.F.R. § 300.530(a)(2). Whether removals constitute a pattern of behavior depends on the length of the removal, the total amount of time and the proximity of the removals. 34 C.F.R. § 300.536(a)(2). IDEA mandates that to the maximum extent appropriate, students are educated with their peers. 34 C.F.R. § 300.114(a). The LRE for a student should be a fundamental part of any placement decision. 34 C.F.R. § 300.116.

a. Improperly restrained and/or secluded Student for maladaptive behaviors;

Student was restrained on at least one occasion on October 25, 2024, for aggressive behaviors as noted in the December 11, 2024, PWN. The records provided did not indicate if this was an isolated incident or describe the circumstances surrounding the restraint. The absence of clear records demonstrates failure of District to document use of restraint as required by § 6.11.2.7 NMAC. Lack of records also creates concern regarding whether circumstances warranted use of restraint pursuant to 22-5-4.12 NMSA (2017). As District has legal duty to create and provide very specific records any time restraint is used, e.g. notice to Parent (22-5-4.12(D)(1) NMAC), lack of such demonstrates failure to follow legal mandates when restraint and/or seclusion is used. It is noted that while restraint is not a form of discipline, it does have legal requirements that must be followed.

The facts provided indicate potential seclusion of Student as Student was always in a classroom with no peers and at least a 1-1 aide and special education teacher and did not have ability to leave. Whether this amounted to "seclusion" where egress was intentionally prevented by District staff is not clear, in part because of District's failure to provide all requested

documentation, but, at the very least, Student was excluded from all peers during educational time such violates IDEA Part B, Least Restrictive Environment. Student was excluded from peers at school because of physical aggression. Staff reported that Student would hit, kick, throw objects or spit at other students and staff. Student did not attend lunch, library or assemblies with peers and was only allowed at school for one hour and 30 minutes daily. The District claimed the modified day was because of academic stamina and frustration, but investigation demonstrated such was due to physical aggression against other students and staff. The District had an obligation to meet and develop a plan to address Student's behaviors to allow Student to participate with peers in school full time.

Student was subjected to 10 days of out of school suspensions (OSS) during the 2024-2025 school year and last year because of physical aggression. Parent was called to take Student home early on multiple occasions.

District improperly restrained and excluded Student for maladaptive behaviors, failed to follow mandates for use of restraint, did not have Student in least restrictive environment and did not develop a plan to address Student's behaviors to allow Student to participate with peers in school full time. These actions and failures to act were violations of IDEA Part B.

b. Failed to complete the required disciplinary procedures including manifestation determination reviews;

An MDR meeting was held after Student was suspended for 10 days on May 30, 2025, during the 2024-2025 school year. Although requested, the District failed to provide the requested records from the MDR, so it is impossible to determine if the District followed the required procedures and for purposes of the report it will be presumed that District did not.

Additionally, the District failed to count when Student left school early because of behaviors or the shortened school day that were a direct result of Student's negative behaviors. The explanation that the IEP team determined that a modified day was justified does not eliminate the District's failure to develop a plan to reduce Student's negative behavior to be in school full time, nor does it make those short days not removals. There should have been an MDR long before the 10-day suspension. Student, with significant needs, was denied more than half of the educational services that a regular education student receives. District did not conduct MDRs when it should have, did not provide documentation for the MDR it says was conducted and did not address Student's behaviors that impeded education. Student may be disciplined for violations of the code of conduct but if continuing negative behaviors require a modified day without addressing those behaviors, then the District has failed in its obligation to provide FAPE. This was a violation of Part B of IDEA.

c. Made an improper referral to law enforcement when Student was acting out;

The May 8, 2024, PWN indicated that when Parent was called, if she did not arrive to pick up Student within one hour of the call, law enforcement would be called. Parent reported multiple instances of being called about Student's behavior last year and this year; often being told to come to pick Student up immediately. Student's DD support person corroborated the repeated contacts to pick up Student. Parent reported that the calls would continue on the way to the school. The District had an opportunity to respond to all issues in the acknowledgement letter and did not dispute this. Although there was no evidence that law enforcement was called for misbehavior, the threat and potential referral was not justified based on Student's behavior. This was a violation of Part B of IDEA.

d. Sent Student home early for misbehaviors rather than reconvene the IEP team to address Student's needs;

Student never attended a full day of school beginning May 8, 2024, throughout the 2024-2025 school year. The October 16, 2024, PWN indicated that Student's time at school would not increase until attendance improved and Student had less than 50% negative behaviors. This was not addressing the District's academic stamina concerns. Student's modified day was because of physical aggression toward other students and staff. Student would refuse to work and throw objects, hit, spit and scratch when Student was asked to do non-preferred or academic tasks. The BIP was modified multiple times but no significant changes were made to the BIP and the District believed the FBA was still appropriate. Attendance was not addressed on the BIP. Although Student has had a BIP for more than the last two school years, Student frequently is absent and has been on a modified day since May 8, 2024, and Student has only increased 15 minutes in at school time. The IEP team failed to meet between December 11, 2024, and May 2, 2025, even though Student was only at school for one hour and thirty minutes a day. December 11, 2024, IEP was to implement homebound services which were not initiated until April 2025. The IEP team failed to develop an IEP that addressed Student's needs to allow educational progress, violating IDEA Part B.

e. Threatened to disenroll Student because of aggressive behaviors;

Parent, in the complaint, alleged that the Principal told her that Student needed to attend school and if Student's behaviors did not improve, Parent should find another school for Student. The District had received a copy of the complaint and was to respond to each allegation in the acknowledgement letter. There was no denial or mention of Parent's allegation. The District reported frustration with Student and the family and were at a loss for how to assist Student without home support. See Issue c. The threats to Parent were not justified and demonstrate the District not addressing Student's behaviors impeding education, a violation of IDEA Part B.

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

3. 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).

There was a substantive denial of FAPE on this record. Student may be making minimal progress on goals but Student has missed more than half of the instruction time for a typical student without justification for the shortened day. The IEP developed has failed to allow Student to make progress commensurate with Student's circumstances. Student's placement was a self-contained classroom and Student was not expected to achieve grade level expectations but the IEP that was developed was not appropriately challenging or effective in addressing Student's needs that impacted on learning. Moreover, Student was not receiving the services that were required by the IEP. Student was consistently shortchanged on service minutes and behavioral concerns were not addressed.

There were also procedural violations on this record. Homebound services were agreed to on December 10, 2024, but the first day of homebound services was April 14, 2025, for approximately 15 minutes three times a week instead of the 300 minutes listed on the IEP. Also, the December 10, 2024, PWN mandated that Student's progress for both the modified day and homebound services would be reviewed every 4-6 weeks, there was no IEP meeting or BIP review between December 2, 2024, and May 2, 2025. The District did not convene the IEP team after December to discuss other options to address Student's maladaptive behaviors but continued

with a modified day for Student even though Student demonstrated increased engagement and decrease in aggressive behaviors. Until May 2025, Student was not provided access to peers and the justification for Student's LRE did not address the LRE requirements. These procedural errors rose to a level of denial of FAPE in that they denied Student educational access and prevented educational progress.

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. §§ 300.320-300.328 and 6.31.2.11(B)(1) NMAC;	<p>The District failed to develop and implement an IEP that allowed Student to make progress and receive a free appropriate public education (FAPE), specifically, the District;</p> <ul style="list-style-type: none"> a. Failed to provide transportation as a related service under the IEP; b. Failed to consistently provide all related services required by the IEP; c. Failed to timely conduct a Functional Behavior Assessment (FBA) and develop a Behavior Intervention Plan (BIP) to address Student's aggressive behaviors; d. Failed to consider and provide positive behavior supports and services to assist Student in managing inappropriate behaviors; e. Failed to consider and provide other supports and services to allow Student to successfully attend school for a full school day; f. Failed to reconvene IEP team when Student was not making progress; g. Failed to ensure Student was receiving services with peers in consideration of LRE requirements; and h. Failed to provide special education services and supports for a full school day.

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. § 300.530 and 6.31.2.11(F)(2) NMAC;	<p>The District failed to follow the IDEA disciplinary procedures when disciplining Student for violations of the District's code of conduct, specifically, the District;</p> <ul style="list-style-type: none"> a. Improperly restrained and/or secluded Student for maladaptive behaviors; b. Failed to complete the required disciplinary procedures including manifestation determination reviews; c. Made an improper referral to law enforcement when Student was acting out; d. Sent Student home early for misbehaviors rather than reconvening the IEP team to address Student's needs; and e. Threatened to disenroll Student because of aggressive behaviors;
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 July 17, 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 June 17, 2026, and reported to the OSE no later than July 1, 2026. All documentation submitted to the OSE to demonstrate compliance with the CAP must be clearly labeled to indicate the state complaint case number and step number.

Corrective Action Plan

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
1.	As described above, the District 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).	June 20, 2025	Written assurance	June 20, 2025
2.	The District Special Education Director and the District Principal shall meet with 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.	June 30, 2025	Notes from meeting	June 30, 2025
3.	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.	August 15, 2025	Notes from meeting	August 19, 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.	The District will complete reevaluations in all suspected areas of need, especially academic, functional, social and behavioral needs to determine what additional services and supports are needed for Student to attend school and be successful.	Reevaluation will be completed within 30 days of Student being accessible to District for such to occur.	<ol style="list-style-type: none"> 1. Notice to Parents of reevaluation 2. Request for Parental Consent 3. Written consent or declination from Parent 4. Reevaluation documents 	June 30, 2025 June 30, 2025 Within 3 work days of receipt Within 10 days of completion of steps of reevaluation
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; • Develop a plan for Student to return to school full time • how to address Student's needs in the areas of academic, social, behavioral and functional. • 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</p>	August 11, 2025	<ol style="list-style-type: none"> 1. Invitation to IEP meeting 2. Agenda for IEP meeting 3. IEP 4. Prior Written Notice(s) 5. Documentation of finalized communication plan distributed to all of Student's teachers and service providers within 5 school days of the meeting with confirmation of receipt logged. 	7 days after the FIEP is held

Step No.	<u>Actions Required by District</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	<p>meeting, pursuant to 34 C.F.R. § 300.322. Note: If mutually agreeable to Parent and required staff, the meeting may be rescheduled within 10 school days of the proposed date.</p> <p>The District shall ensure that a copy of the IEP is provided to Parent at the end of the meeting and that all related notices are in Parent's native language.</p> <p>The District will also ensure that Parent's preferred mode (hard copy and/or electronic) of communication is established, including language, and a plan put in place to both follow Parent's preferences and that plan communicated out to all teachers and service providers of Student.</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> <p>The training shall address the following special education topics:</p>	August 30, 2025	Training materials, Attendance list of trainees	September 15, 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>
	<ol style="list-style-type: none"> 1. The development and implementation of IEPs and BIPs; 2. Need for addressing student behavior that impedes education to include REED, reevaluation, and positive behavior intervention strategies; 3. Discipline and removals and how formal and/or informal discipline or sending home early is counted that will, when over 10 events, trigger need for MDR; and documentation of MDR; 4. Least Restrictive Environment. 			

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

Investigated by:

/s/ Michele K. Bennett

Michele K. Bennett, Esq.

Complaint Investigator

Reviewed by:


/s/ Natalie Campbell

Natalie Campbell, Esq.

Chief Counsel, Office of Special Education

Reviewed and approved by:

DocuSigned by:


88199725368D409...

Amanda DeBell

Deputy Cabinet Secretary