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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT  
OFFICE OF SPECIAL EDUCATION  
Complaint Resolution Report  
New Mexico Public Education Department  
New Mexico School for the Arts  
Case No. C2425-65  
July 11, 2025**

On May 14, 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> I, as the appointed independent Investigator, have 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 PED's responses to the allegations, together with documentation submitted by the PED at the request of the independent complaint investigator;

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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 Charter School's responses to the allegations, together with documentation submitted by the Charter School at the request of the independent complaint investigator;
- review of the Charter School and PED's compliance with federal IDEA regulations and state NMAC rules;
- communications with the Parent;
- interviews and communications with the Deputy General Counsel, Office of General Counsel for PED;
- 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. The Complaint Investigator did not investigate allegations of a denial of FAPE to the Student by the Charter School which occurred more than one year prior to May 14, 2025. The State of New Mexico is a one-tier state with respect to state complaint investigations, which means that there is no appeal process as to the issues decided in a final Complaint Resolution 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 Charter School failed to meet its Child Find obligation to the Student by:
  - a. failing to refer Student for an initial special education evaluation during the jurisdictional period of this complaint investigation and while Student was enrolled in the Charter School, as required by 34 C.F.R. § 300.111(a)(1) and (c) and 6.31.2.11(I)(3).
2. Whether the Charter School's actions and/or omissions towards the Student during the jurisdictional period of this complaint investigation and while Student was enrolled in the Charter School 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.
3. Whether the PED failed to comply with its general supervisory responsibilities set forth in 34 C.F.R. §§ 300.149 and 300.151, by failing to ensure that the Federal and State complaint

procedures were followed, specifically by:

- a. allegedly using non-binding, out-of-circuit case law in the May 5, 2025, CRR to justify a denial of the Parents' FAPE claim with respect to the state complaint filed by the Parents against the Charter School on February 27, 2025, in violation of 6.31.2.13(H); and
- b. failing to route the Parents' July 2024 complaint to be investigated under the State's Special Education complaint rules found at 6.31.2.13(H) NMAC, rather than the Gifted and Talented complaint rules found at 6.31.3.14 NMAC.

### **General Findings of Fact Regarding the Charter School**

1. The Charter School is a statewide public high school (grades 9-12) and is an LEA authorized under the Public Education Commission.
2. Under the Federal regulations and State Rules, the Charter School is responsible to satisfy child find requirements for children who are enrolled in the Charter School.
3. The Student is currently 17 years of age and resides with the Parents.
4. The documentation provided by the Parents and Charter School include two previous State Complaints filed by the Parents against the Charter School on July 15, 2024, and February 27, 2025.
5. Student transferred into the Charter School on October 5, 2023. Prior to the transfer, Student, who has been evaluated as gifted, attended another in-state charter school where a gifted IEP was developed for the Student on September 7, 2023. (May 5, 2025, CRR, Facts para. 1.)
6. Parents did not request a special education evaluation of the Student in September 2023, or upon enrollment in the Charter School in October 2023. (May 5, 2025, CRR, Facts para. 2.)
7. On May 8, 2024, the Charter School and the Parents met for the annual update of the Gifted Individualized Education Plan (GIEP) for the Student.
8. On July 15, 2024, Parents filed a gifted complaint against the Charter School. Part of the relief requested by the Parents was an academic evaluation of Student. Many of the Charter School staff, including the special education director, were on summer break at that time. The Charter School did not respond to the request for an evaluation but responded to the Parents' complaint. (May 5, 2025, CRR, Facts para. 36.)
9. The Charter School calendar for the 2024-2025 school year shows that school was not in session during July 2024.
10. The Charter School calendar for the 2024-2025 school year shows that school began for returning students on August 7, 2024.
11. Parents informed the Charter School in an email on August 8, 2024, that Student would not be returning to the Charter School for the 2024-2025 school year. (May 5, 2025, CRR, Facts para. 37.)

12. Student was never referred for a special education evaluation by the Charter School. (May 5, 2025, CRR, Facts para. 38.)
13. On February 27, 2025, the Parents filed an IDEA Part B state complaint against the Charter School alleging that the Charter School violated its Child Find obligations to the Student by failing to refer the Student for an initial special education evaluation, and failing to respond to the Parents' July 15, 2024, request for an initial special education evaluation.
14. The May 5 CRR states that the complaint investigator reviewed the complaint and supporting documentation from complainant; reviewed Charter School's responses to the allegations, together with documentation submitted by the Charter at the request of the complaint investigator; reviewed Charter School's compliance with Federal IDEA regulations and state NMAC rules; interviewed the Parents, Head Administrator, three General Education Teachers, Director of Special Education and Student Services and the Principal; researched applicable legal authority; made findings of fact; applied federal and state statute and regulation laws, as well as precedential case law, to the facts; and made conclusions of law regarding the Charter School's compliance with IDEA Part B mandates.
15. With respect to the Parents' allegations that the Charter School violated its Child Find obligation to the Student set forth in the February 2025 complaint, the corresponding May 5 CRR, contains the following conclusions of Law:
  - a. "While the bullying may not be a red flag by itself for the need for an evaluation, the cumulative knowledge of the Charter, detailed above, was significant and triggered Child Find obligations for the Charter."
  - b. "The Charter did not seek out permission for an evaluation but indicated that Student was earning good grades in all classes and maintained the position that there were no indicators that Student needed special education. The Charter ignored the multiple signs that this Student may be eligible for special education services."
  - c. "Finally, on July 15, 2024, Parents, in a state gifted complaint, made a written request for an evaluation of Student. The Charter did not respond with a PWN within the required 14 days - either proposing or declining the evaluation. The Charter was not informed that Student would not be returning until August 7, 2024, so the Charter was responsible for Child Find on July 29, 2024."
  - d. "The Charter failed in meeting its Child Find obligation."
16. The May 5 CRR did cite the Charter School for violating its Child Find obligation to the Student for the period of time between February 27, 2024 and August 7, 2024, and corrective action was required.
17. With respect to whether the Charter School violated the Student's right to a FAPE, the May 5 CRR stated that "[w]hile Student suffered harm due to the Charter's failure to effectively address bullying, it is not concluded that Student suffered substantive educational harm that

can be remedied by compensatory educational services. Student's grades faltered mid-term, but Student was able to bring the grades up by the end of the semester."

18. The May 5 CRR did not cite the Charter School for a substantive violation of the IDEA and State rules for the period of time between February 27, 2024 and February 27, 2025.

### **General Findings of Fact Regarding the PED**

1. The PED is the State Educational agency (SEA) for the state of New Mexico. The PED is authorized under the IDEA Federal regulations to be primarily responsible for the State supervision of public elementary schools and secondary schools.
2. The PED is required by statute and the NMAC to promulgate rules and supervise the implementation of special education services to students with disabilities, and educational services for gifted and talented students, in New Mexico by each local educational agency (LEA).
3. Prior to July 31, 2023, the rules related to the education of gifted and talented students in New Mexico were set forth in the New Mexico Administrative Code at 6.31.2.12. These rules were repealed on July 31, 2023. On July 31, 2023, the PED promulgated rules for gifted and talented students at 6.31.3 NMAC (Gifted and Talented Rules) that are binding on each New Mexico public agency that has direct or delegated authority to provide gifted education and related services. One of the stated purposes of these rules is to ensure that the rights of gifted students and their parents are protected.
4. The PED has adopted written procedures for resolving complaints filed by parents or other individuals or agencies under the IDEA by providing for the filing of a complaint with the PED.
5. The Gifted and Talented Rules provide for a party to file a written request for review by the PED (gifted complaint) regarding the actions of an LEA related to the provision of gifted education to a gifted student.
6. On July 15, 2024, the PED received a written complaint filed by the Parents against the Charter School regarding the Student. This complaint was first received by the special education staff at PED and was screened by the then Chief Counsel for Special Education. The PED reports that the July 2024 complaint did not meet the requirements for a complaint under IDEA Part B.
7. The PED reports that the Parents' July 2024 Complaint was routed to the gifted process by the PED because its review of the July 2024 Complaint revealed the following:
  - a. the language of the complaint used the term "gifted" 20 times;
  - b. it referenced concerns about an IEP meeting with the "Gifted IEP Coordinator;"
  - c. it referenced protections for students with a "gifted IEP;"
  - d. it referenced Student's "performance in her areas of giftedness;" and

- e. the Parents also expressed concerns that: “The teacher feedback provided in the proposed IEP lacks written explanation of the necessary supports and fails to reflect a comprehensive understanding of our daughter’s educational and emotional needs as an identified gifted student with an IEP.”
8. The July 2024 Complaint does not raise, as one of its issues, an allegation that the Charter School violated its Child find obligations to the Student under IDEA Part B.
9. The documentation from the Parent also shows that the Parents’ July 2024 complaint was filed due to the Parents’ concerns about the implementation of the Student’ GIEP. In an email from Parent to the PED’s Gifted Specialist on August 29, 2024, the Parent stated: “I would like to clarify that I am pursuing this complaint [July 2024] regarding the failure of [the Charter School] to implement my daughter’s IEP while she was enrolled there. I understand that I have the right to file a complaint and seek appropriate remedies for violations that occurred during her enrollment, regardless of her current status as a student. The fact that my daughter no longer attends [the Charter school] should not impact investigation into violations that occurred while she was a student.”
10. The Parents’ August 29, 2024, email to the Gifted Specialist also shows that it was not until after the July 2024 Complaint was filed that the parent expressed concerns about Child Find: “Additionally, please note that we are requesting a reevaluation for our daughter to consider her recently diagnosed conditions that will fall under Other Health Impairment (OHI) and Emotional Disturbance (ED) to determine whether these conditions qualify her for additional services under the Individuals with Disabilities Education Act (IDEA). And we are raising concerns regarding a potential failure by [the Charter School] to fulfill its obligations under the Child Find mandate.”
11. On February 27, 2025, the Parent did file a state complaint with the PED alleging Child Find violations by the Charter School which was received by the PED’s special education staff and appropriately routed to a complaint investigator for investigation under IDEA Part B.
12. The May 5 CRR made findings and conclusions that the Charter School violated its Child Find obligations to the Student during the complaint’s jurisdictional period of February 27, 2024, to February 27, 2025. Obviously, this includes the time of the Parent’s request for an initial special education evaluation in the July 2024 complaint until the Student was disenrolled from the Charter School on August 8, 2024.
13. The May 5 CRR cited the Charter School for Child Find violations and ordered corrective action. The May 5 CRR also concluded that the Charter School’s procedural violations did not rise to the level of substantive violations under the IDEA and, therefore, the Charter School was not ordered to provide compensatory education services to the Student.
14. In the May 5 CRR, the PED based its legal conclusion of no substantive violations of the IDEA by the Charter School, in part, in reliance on two Circuit Court of Appeal cases, i.e. *D.G. v. Flour Bluff Independent School Charter*, 481 F. App’x 887 (5th Cir. 2012), and *J.N. v. Jefferson*

*County Board of Education*, 12 F. 4th 1355 (11th Cir. 2021). The Parents' complaint alleges that the PED violated its supervisory responsibilities by its reliance on these cases in the May 5 CRR.

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

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

**Whether the Charter School failed to meet its Child Find obligation to the Student by:**

- a. failing to refer Student for an initial special education evaluation during the jurisdictional period of this complaint investigation and while Student was enrolled in the Charter School, as required by 34 C.F.R. § 300.111(a)(1) and (c) and 6.31.2.11(l)(3).**

As noted above, this is the third State Complaint filed by the Parent against the Charter School regarding the Student. The second complaint filed by the Parent was filed on February 27, 2025, which means that the jurisdictional time period for that complaint reached back to February 27, 2024. The February 27, 2024, complaint included three issues: (1) whether the Charter School violated its Child find obligations to Student, (2) whether the Charter School failed to address allegations of bullying toward the Student, and (3) whether the Charter School denied the Student FAPE. The Complaint Resolution Report for the Parents' February 27, 2025, complaint was filed on May 5, 2025, the May 5 CRR.

Under the New Mexico Administrative Code, Charter schools who are LEAs authorized under the Public Education Commission shall satisfy child find requirements for children enrolled in the charter school. 6.31.2.11(l)(3) NMAC. The Charter School is a statewide public high school (grades 9-12) and is an LEA authorized under the public education commission. The Student was enrolled in the Charter School during the relevant jurisdictional period of this complaint investigation from May 14, 2024, until August 8, 2024. Therefore, it is concluded that with respect to the Student, the Charter School was responsible for child find prior to August 8, 2024, but was no longer responsible for child find after August 8, 2024.

With respect to Issue No. 1 in the Parents' February 2024, complaint, the May 5 CRR clearly states that the investigation included the Parent's claim that the Charter School failed to conduct an initial special education evaluation of the Student following a request from the Parent made in the Parent's July 2024 complaint. In the May 5 CRR the Charter School was charged with knowledge of this parental request for an initial evaluation. It was also found that no other requests for an initial evaluation were made by the Parents prior to July 15, 2024. The May 5 CRR concluded that the Charter School violated its child find obligation to the Student by failing to either initiate a special education evaluation or provide PWN to the Parents, and corrective action

was required. As noted above, the Parents disenrolled the Student from the Charter School on August 8, 2024, the first day that school resumed for the 2024-2025 school year. Therefore, it is concluded that the PED did investigate, make findings on, and ultimately concluded that the Charter School failed to respond to the Parents' request for an initial evaluation made on July 15, 2024. It is concluded that after August 8, 2024, the Student was no longer enrolled in the Charter School. This period of time between July 15 and August 8, 2024, is included within the jurisdictional period of this current complaint investigation. Therefore, it is concluded that the PED has already made findings of fact and conclusions of law and cited the Charter School for the same issue set forth in Issue No. 1 herein.

In the present Complaint, the Parents allege that the bullying suffered by the Student and allegations that the Student engaged in self-harm should have been sufficient for Charter School staff to have referred the Student for a special education evaluation. The May 5 CRR concluded as follows: "While the bullying may not be a red flag by itself for the need for an evaluation, the cumulative knowledge of the Charter, detailed above, was significant and triggered Child Find obligations for the Charter." It was further concluded that the "Charter failed in meeting its Child Find obligation." It is concluded herein that the May 5 CRR did include findings to support a conclusion that the Charter School failed to refer the Student for an initial special education evaluation during the relevant jurisdictional period of this complaint investigation.

The state of New Mexico is a 1 tier complaint investigation system, which means that a CRR constitutes the final decision for a state complaint investigation, from which there is no appeal process. The May 5 CRR specifically informed the parties that "this report constitutes the New Mexico Public Education Department's final decision regarding this complaint." Therefore, the findings of fact, conclusions of law and corrective action set forth in the May 5 CRR are final, and the PED will not set aside or alter that CRR or order different or additional corrective action as to Issue No. 1 herein. **As to Issue No. 1(a), the PED has previously entered findings and conclusions and corrective action regarding this issue and, therefore, the Charter School is not cited for an additional violation.**

## **Issue No. 2**

**Whether the Charter School's actions and/or omissions towards the Student during the jurisdictional period of this complaint investigation and while Student was enrolled in the Charter School 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 federal regulations and State Rules provide that violations of the IDEA may be based on either substantive or procedural violations. In the present investigation, Issue No. 2 involves the



question as to whether the Charter School violated the Student's right to a FAPE during the jurisdictional period of this complaint investigation and while the Student was enrolled in the Charter School. The jurisdictional period of the current complaint investigation overlaps the previous February 27 complaint investigation during the time between May 14, 2024, to August 8, 2024. The allegations of Child Find violations in the February 27 complaint and the current complaint were only made against the Charter School. Therefore, the period of time after August 8, 2024, is not relevant to this complaint investigation because the Student was not enrolled in the Charter School, and the Charter School was only responsible for Child Find during the time the Student was enrolled in the Charter School. 6.31.2.12(I)(3) NMAC. Therefore, it is concluded that the Parent's allegations of Child Find violations against the Charter School after August 8, 2024, are not factually or legally enforceable against the Charter School.

However, there was a Child Find violation against the Charter School found in the May 5 CRR which was identified as a procedural violation of the IDEA and State Rules for failing to timely respond to the Parent's July 15, 2024, request for an evaluation. This procedural violation found in the May 5 CRR is also within the jurisdictional period of this complaint investigation. Therefore, this issue has already been investigated and determined by the PED and no additional findings or conclusions of law are needed or appropriate in the current complaint investigation. As noted above, May 5 CRR was a final decision of the PED regarding whether the Charter School violated its Child Find obligations to the Student prior to August 8, 2024. **As to Issue No. 2, the PED has previously entered findings and conclusions and corrective action regarding this issue and, therefore, the Charter School is not cited for an additional violation.**

### **Issue No. 3**

**Whether the PED failed to comply with its general supervisory responsibilities set forth in 34 C.F.R. §§ 300.149 and 300.151, by failing to ensure that the Federal and State complaint procedures were followed, specifically by:**

- a. allegedly using non-binding, out-of-circuit case law in the May 5, 2025, CRR to justify a denial of the Parents' FAPE claim with respect to the state complaint filed by the Parents against the Charter School on February 27, 2025, in violation of 6.31.2.13(H); and**
- b. failing to route the Parents' July 2024 complaint to be investigated under the State's Special Education complaint rules found at 6.31.2.13(H) NMAC, rather than the Gifted and Talented complaint rules found at 6.31.3.14 NMAC.**

The Parent's current Complaint alleges that the PED failed to comply with its general supervisory responsibilities with respect to the May 5 CRR and the Parents' July 2024, Complaint. The Parents allege that PED relied on non-binding, out-of-circuit case law in the May 5 CRR to justify a denial of the Parents' FAPE claim. As alleged in the Parent's Complaint and set forth in the facts above,

the PED did rely in part on 5th Circuit (*D.G. v. Flour Bluff Independent School Charter*) and 11th Circuit court (*J.N. v. Jefferson County Board of Education*) cases in the May 5 CRR. These cases were cited in support of the conclusion that the procedural violation found in the May 5 CRR did not rise to the level of a substantive violation of FAPE requiring compensatory education. However, it should be noted that the May 5 CRR also relied on 34 CFR §§ 300.101, 300.17, 300.8(a)(1), and 300.306(a); 6.31.2.8 NMAC; and Endrew F., *Id.* The Parents argue that the PED should have cited as legal authority in the May 5 CRR the U.S. Supreme Court case of *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230 (2009). The Parents further argue that the cases cited from the 5th and 11th Circuit courts cite out dated standards and are non-binding precedents in the 10th Circuit and have no precedential value in New Mexico.

The complaint investigator is not aware of any U.S. Supreme Court case that has overturned or disagreed with the holdings of the 5th or 11th Circuit Court cases at issue. The complaint investigator is also not aware of any 10th Circuit Court case that specifically disagrees with the holdings of the 5th or 11th Circuit Court cases at issue. The Parents have also not cited any case that would be binding legal authority in New Mexico with similar facts and legal issues as those set forth herein that disagrees with the holdings in *D.G. v. Flour Bluff Independent School Charter* and *J.N. v. Jefferson County Board of Education*.

The PED argues that the legal authorities cited in the May 5 CRR are appropriate persuasive authority because the issue being determined, and the related facts, are on point with respect to the issues and facts in the May 5 CRR. The May 5 CRR concluded that the Charter School violated its child find obligations, but also concluded that the violations did not rise to the level of a substantive denial of FAPE, and did not award compensatory education or private school tuition reimbursement. The PED argues that the *Forest Grove* case is not helpful in the present investigation because the holding in *Forest Grove* is not directly on point with the facts found by the complaint investigator in the May 5 CRR: “IDEA authorizes reimbursement for private special-education services when a public school fails to provide a FAPE and the private-school placement is appropriate, regardless of whether the child previously received special-education services through the public school.” *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230 (2009). The PED argues that “the holding in *Forest Grove Sch. Dist. v. T.A.* applies when a denial of FAPE has been determined; it does not instruct as to whether particular facts related to child find rise to the level of a denial of FAPE.” The PED further points out that *D.G. v. Flour Bluff Independent School Charter* and *J.N. v. Jefferson County Board of Education* “are on point with the determination of whether the instant Charter’s procedural failure regarding child find rose to the level of a denial of FAPE.”

The complaint investigator finds the arguments of the PED persuasive with respect to the use of

the *D.G. v. Flour Bluff Independent School Charter* and *J.N. v. Jefferson County Board of Education* cases in the May 5 CRR. In the absence of what would be considered “binding” legal precedent with similar issues and on point factual findings, persuasive legal authorities may be, and commonly are, appropriately cited as legal precedent in complaint investigations. Therefore, it is concluded that the PED did not fail to comply with its general supervisory responsibilities by failing to ensure that the Federal and State complaint procedures were followed, specifically by allegedly using non-binding, out-of-circuit case law in the May 5, 2025, CRR to justify a denial of the Parents’ FAPE claim with respect to the state complaint filed by the Parents against the Charter School on February 27, 2025. **As to Issue No. 3(a), the PED is not cited.**

The Parents have also raised an issue as to whether the PED failed to ensure that the Federal and State complaint procedures were followed, specifically by failing to route the Parents’ July 2024 complaint to be investigated under the State’s Special Education rules found at 6.31.2.13(H) NMAC, rather than the Gifted and Talented Rules found at 6.31.3.14 NMAC. The Parents argue that the July 2024 complaint should have been routed by the PED to an IDEA Part B complaint investigator instead of to the PED’s Gifted Specialist. The Parents argue that the July 2024 Complaint included child find allegations against the Charter School.

The PED argues that the July 2024 Complaint was not about child find, but was about the implementation of the Student’s GIEP. A close reading of the July 2024 complaint shows that the July 2024 complaint did not allege child find violations but did reference the implementation of Student’s GIEP many times. The July 2024 complaint also used the term “gifted” about 20 times. The Parent’s Complaint did request an evaluation for the Student as part of its requested relief. The Parents did raise the issue of a potential child find violation with the Gifted Specialist, but this was only in an email sent on August 29, 2024. The request for an evaluation in the July 2024 complaint was made during the summer recess when the Charter School was not in session. A violation of child find regarding the Parents’ July 15, 2024, request for an evaluation could not have occurred until all periods of time for obtaining parental consent and initiating the evaluation had expired. The Parent disenrolled the Student from the Charter School on August 8, 2024. Therefore, it is concluded that the Parent’s July 2024 complaint did not allege an IDEA child find violation against the Charter School and did not otherwise qualify as an IDEA complaint. It should be noted that the Parents did later file a state complaint on February 27, 2025, alleging IDEA child find violations against the Charter School, which did include the July 2024 request for evaluation. These allegations of child find violations were investigated by the PED, as set forth above.

The complaint investigator has carefully reviewed the PED’s process for routing complaints to complaint investigators. It is concluded that under the facts set forth above, it was reasonable for the PED dedicated staff who received and reviewed the Parent’s July 2024 complaint to route

it to the PED's Gifted Specialist for investigation. The PED has noted in its response to the Parent's complaint that improvements could be made to its complaint routing process, such as contacting parents directly in situations where it may be unclear whether the parents are filing a gifted complaint or an IDEA Part B complaint. The PED has stated it will include such a process in the future, which the complaint investigator agrees would be a helpful improvement. However, it is concluded that the PED's complaint routing process did not violate the Student's or Parents' rights without such an improvement in place. Therefore, it is concluded that the PED did not fail to comply with its general supervisory responsibilities by failing to ensure that the Federal and State complaint procedures were followed, specifically by failing to route the Parents' July 2024 complaint to be investigated under the State's Special Education rules rather than the Gifted and Talented Rules. **As to Issue No. 3(b), the PED is not cited.**

**This report constitutes the complaint investigator's final decision regarding this complaint.**

Investigated by:

/s/ Wallace J. Calder

Wallace J. Calder, Esq.

Independent Complaint Investigator