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**NEW MEXICO PUBLIC EDUCATION DEPARTMENT
OFFICE OF SPECIAL EDUCATION
Complaint Resolution Report
School of Dreams Academy (SODA)
Case No. 2425-66
July 11, 2025**

This Report requires corrective action. See pages 11-13.

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.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 Local Education Agency's (LEA's) responses to the allegations, together with documentation submitted by the LEA 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 LEA's compliance with federal IDEA regulations and state NMAC rules;
- review of LEA questionnaire submitted, completed, and returned on June 18, 2025;
- interview with Educational Diagnostician/IEP Facilitator on June 26, 2025;
- interview with Special Education/IEP Facilitator on June 26, 2025;
- interview with the Parent on June 26, 2025; and
- research of applicable legal authority.

Limits to the Investigation

Federal regulations and state rules limit the investigation of state complaints to violations that occurred not more than one year prior to the date the complaint is received. 34 C.F.R. § 300.153(c); 6.31.2.13(H)(2)(d) NMAC. Any allegations related to professional or ethical misconduct by 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 LEA developed individualized education program(s) (IEPs) that were tailored to Student's unique needs and reasonably calculated to enable the Student to make progress appropriate in light of their circumstances, specifically by:
 - a. Considering Parent's concerns, pursuant to 34 C.F.R. § 300.324(a); and
 - b. Including supports and services to address all of Student's academic, developmental, and functional needs, pursuant to 34 C.F.R. §§ 300.320 and 300.324; and 6.31.2.11 NMAC.
2. Whether the LEA properly implemented the Student's IEP(s), specifically, by providing all special education and related services, pursuant to 34 C.F.R. § 300.323 and 6.31.2.11(B)(1) NMAC.
3. Whether Parent was included in the decision to amend and/or remove services and accommodations from Student's IEP, pursuant to 34 C.F.R. §§ 300.321; 300.322(a); 300.324(a)(6); and 300.501(b); and 6.31.2.7(B)(11); 6.31.2.11(B)(2) and (4); and 6.31.2.13(C) NMAC.

4. Whether the LEA provided prior written notice (PWN) prior to proposing or refusing to initiate or change a provision of Student's free appropriate public education (FAPE), pursuant to 34 C.F.R. § 300.503 and 6.31.2.13(D) NMAC.
5. Whether the LEA's actions and/or omissions towards the Student resulted in a denial of a free appropriate public education (FAPE), in violation of 34 C.F.R. § 300.101 and 6.31.2.8 NMAC.

General Findings of Fact

1. Student has been eligible for special education services for several years. More recently, in February 2023, Student was identified as a student with a disability under the primary classification of specific learning disability (SLD). However, Student also had identified communication-related needs, per a speech-language evaluation conducted in February 2023.
2. During the 2022-23 school year, Student was in the ninth grade and had an IEP in effect dated February 20, 2023. At the time, the IEP included one annual IEP goal to address Student's communication needs and Student was to receive speech special education services on a weekly basis.
3. On April 26, 2023, an IEP meeting was held to discuss special education services for Student. The prior written notice (PWN) regarding the meeting indicates the LEA proposed to suspend speech special education services for the remainder of the 2022-23 school year and resume services at the beginning of the 2023-24 school year. The reason for suspending services was to give Student a "break." The PWN further states the LEA offered to consult with a new speech language pathologist (SLP) to provide services to Student but Parent refused. Parent signed the PWN, indicating their consent for the LEA to proceed with the actions proposed in the notice.
4. At the start of the 2023-24 school year, on August 14, 2023, the February 20, 2023, IEP was amended. The PWN indicates Student's primary disability category was changed to Autism after a review of an outside evaluation. The PWN further states speech services would resume once the LEA was able to hire a new SLP.
5. In March 2024, a new annual IEP was developed. Parent was in attendance at the meeting. The IEP is dated March 8, 2024. Relevant portions of the IEP include:
 - a. The Student Profile section includes only one "concern." Specifically, the IEP includes the most recent evaluation results indicating Student has articulation-related needs. All other information included in the Student Profile section is listed as a "strength," including academics.
 - b. Three annual goals are included to address academics and post-secondary transition. No goals were included regarding Student's articulation needs.

- c. Parent's electronic signature was applied on March 8, 2024 at 8:54 p.m.
6. The PWN attached to the IEP makes no mention of Student's communication related needs or speech services.
7. Student did not receive any speech services during the entire 2023-24 school year.
8. The 2024-25 school year began on August 1, 2024. Student was then in tenth grade and the March 8, 2024 IEP was still in effect.
9. On September 24, 2024, the LEA was forced to sign the March 4, 2024 IEP on behalf of Student, in order to complete progress reporting. The LEA asserts its program does not allow progress reports to be created unless all IEP meeting participants have submitted an electronic signature. At that time, Student had not yet signed the IEP.
10. On October 4, 2024, Parent emailed the LEA asking to set up a meeting. A meeting was scheduled for October 10, 2024.
11. One hour before the meeting was scheduled to start, Parent emailed the LEA stating they would like to discuss the missed therapy sessions and an alleged fraudulent signature.
12. An informal meeting was held on October 10, 2024. At the meeting, it was discussed that Student's speech services had yet to be reinstated. The LEA agreed to start providing speech services again.
13. Despite agreeing to provide speech services, the IEP was not amended to reflect same.
14. On October 24, 2024, Parent emailed the LEA asking when speech services were going to be reinstated. Parent also inquired as to why speech services were removed from Student's IEP without proper testing and parent consent. In response, the LEA scheduled a second meeting for November 15, 2024.
15. A second informal meeting was held on November 15, 2024. Parent inquired as to why speech services still had not been provided. Parent also requested a new annual IEP be developed. An annual IEP meeting was scheduled for the following month.
16. An annual IEP meeting was held on December 5, 2024. The IEP developed is dated December 5, 2024. Relevant portions of the IEP include:
 - a. Student's primary disability category is Autism.
 - b. The Student Profile section indicates Student meets eligibility requirements in the area of articulation.
 - c. Two annual goals include articulation and post-secondary transition. The present levels associated with the articulation goal are the findings that were included on a speech-language evaluation report dated February 17, 2023.
 - d. Special education services include speech services for 30 minutes/week in the special education setting.
17. The PWN indicates the IEP team will reconvene in May 2025 to determine if Student needs compensatory speech services.
18. Student did not receive any speech services between October and December 2024.

19. A progress report was generated on January 13, 2025. The progress report indicates the LEA did not then-currently have an SLP so no progress was made on the articulation IEP goal.
20. A progress report was generated on March 10, 2025. The progress report indicates the LEA did not then-currently have an SLP so no progress was made on the articulation IEP goal.
21. The LEA asserts a SLP was hired and available to provide services to Student beginning the week of March 24, 2025. The LEA further asserts the SLP attempted to provide services to Student but Student was unavailable.
22. An IEP meeting was held on April 23, 2025, to discuss the results of recently conducted cognitive testing. The PWN regarding the meeting states Student “has not received speech language services” and the LEA would calculate the compensatory services owed prior to the end of the school year.
23. On April 25, 2025, the LEA emailed Parent indicating the SLP had attempted to schedule sessions with Student but was unsuccessful in doing so. Parent asked that the SLP contact Parent to schedule the sessions.
24. Parent asserts Student only obtained services from the SLP twice during the 2024-25 school year.
25. At the time of this writing, the LEA has informed Parent that it is willing to provide 72 hours of speech compensatory services to Student. Student will attend the first compensatory service session on June 27, 2025. The LEA anticipates providing four hours of compensatory services during the summer of 2025.

Discussion and Conclusions of Law

Issue No. 1

Whether the LEA developed individualized education program(s) (IEPs) that were tailored to Student’s unique needs and reasonably calculated to enable the Student to make progress appropriate in light of their circumstances, specifically by:

- a. Considering Parent’s concerns, pursuant to 34 C.F.R. § 300.324(a); and***
- b. Including supports and services to address all of Student’s academic, developmental, and functional needs, pursuant to 34 C.F.R. §§ 300.320 and 300.324; and 6.31.2.11 NMAC.***

The primary vehicle for providing FAPE is through an appropriately developed IEP that is based on the individual needs of the child. *Dear Colleague Letter*, 115 LRP 53903 (OSERS 2015). The IDEA requires a district offer an IEP reasonably calculated to enable a child to make progress

appropriate in light of their circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999 (2017).

In developing an IEP, the IEP Team must consider the strengths of the child, the parent's concerns, evaluation results, and "the academic, developmental, and functional needs of the child." 34 C.F.R. § 300.324(a)(1). An IEP must contain measurable annual goals designed to: (1) meet the needs that result from the student's disability to enable him or her to be involved in and make progress in the general education curriculum, and (2) meet each of the student's other educational needs that result from his or her disability. *Id.* at 300.320(a)(2). An IEP must also include the special education and related services and supplementary aids and services that will be provided to allow the child to (1) attain the annual goals, (2) be involved and make progress in the general education curriculum and (3) participate in nonacademic activities. *Id.* at 300.320(a)(4).

First and foremost, the decision to suspend speech services for the remainder of the 2022-23 school year, as well as the failure to reinstate speech services during the 2023-24 school year, fall outside the scope of this investigation. As such, the findings and decisions hereafter will be based solely on the LEA's actions from May 15, 2024, onward.

The March 8, 2024, IEP clearly identifies that the Student has articulation needs. Despite this, no speech-related IEP goal or corresponding services were included. A speech-related goal and services were not added to the Student's IEP until December 5, 2024. Consequently, between May 15, 2024, the first date subject to this investigation, and December 5, 2024, the Student's IEP was not reasonably designed to meet their needs, a substantive violation of the IDEA.

Of note, the LEA agreed to provide speech services to Student in October 2024. The LEA did not amend the IEP to reflect this decision. The LEA should have amended the IEP to include speech services, developed a corresponding IEP goal, and issued a PWN. The LEA's verbal commitment to provide services is not in compliance with the IDEA.

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

Issue No. 2

Whether the LEA properly implemented the Student's IEP(s), specifically, by providing all special education and related services, pursuant to 34 C.F.R. § 300.323 and 6.31.2.11(B)(1) NMAC.

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17. The IEP is "the centerpiece of the statute's education delivery system for disabled children . . . [and] the means by which special education and related services are 'tailored to the unique needs' of a

particular child.” *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). A student’s IEP must be implemented in its entirety. 34 C.F.R. § 300.323(c)(2).

A school district must ensure that “as soon as possible following the development of the IEP, special education and related services are made available to a child in accordance with the child’s IEP.” *Id.* See also 6.31.2.11(B)(1) NMAC.

Technically, the March 8, 2024 IEP did not include speech services. For this reason, there is no finding that the LEA failed to implement the March 2024 IEP. However, the December 5, 2024, IEP did include speech services. Student did not begin receiving services until the spring of 2025. Therefore, the LEA failed to implement Student’s IEP, in violation of 34 C.F.R. § 300.323 and 6.31.2.11(B)(1) NMAC.

As to Issue No. 2, the LEA is cited, and Corrective Action is required.

Issue No. 3

Whether Parent was included in the decision to amend and/or remove services and accommodations from Student’s IEP, pursuant to 34 C.F.R. §§ 300.321; 300.322(a); 300.324(a)(6); and 300.501(b); and 6.31.2.7(B)(11); 6.31.2.11(B)(2) and (4); and 6.31.2.13(C) NMAC.

An IEP team must include the parents of the child. 34 C.F.R. § 300.321(a) and 6.31.2.7(B)(11) NMAC. See also 34 C.F.R. § 300.501(b) and 6.31.2.13(C) NMAC.

School districts must take steps to ensure that one or both parents of a student with a disability are present at each IEP meeting and afforded the opportunity to participate in the meeting. 34 C.F.R. § 300.322(a).

Parent alleged that speech services were removed from Student’s IEP without their knowledge.

Speech services were first removed from the Student’s IEP at the March 2024 IEP meeting. Parent attended the meeting and, subsequently, signed the IEP. Parent may not recall signing the IEP, nor recall why speech services were removed from the IEP, but the LEA documentation supports a finding that Parent was involved in the decision and received PWN following the meeting. Therefore, the LEA is in compliance with federal and state rules.

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

Issue No. 4

Whether the LEA provided prior written notice (PWN) prior to proposing or refusing to initiate or change a provision of Student's free appropriate public education (FAPE), pursuant to 34 C.F.R. § 300.503 and 6.31.2.13(D) NMAC.

A district must provide prior written notice prior to proposing or refusing to initiate or change the identification, evaluation, educational placement, or provision of FAPE to a child. 34 C.F.R. § 300.503; *see also* 6.31.2.13(D)(2) NMAC.

As stated above, the decision to suspend speech services in April 2022 and the issuance of a PWN following the development of the March 2024 IEP is outside the scope of this investigation. Nonetheless, the LEA did issue a PWN that explained the LEA's proposal to suspend services and when services would be reinstated. The LEA also issued a PWN after the development of the March 8, 2024, in compliance with 34 C.F.R. § 300.503 and 6.31.2.13(D)(2) NMAC.

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

Issue No. 5

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

FAPE must be made available to all children with disabilities. 34 C.F.R. § 300.101; 6.31.2.8 NMAC. School districts must provide FAPE for each student who resides within the school district's educational jurisdiction. 6.31.2.9(A) NMAC.

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

The failure to implement an IEP can result in a denial of a FAPE. 34 C.F.R. § 300.17. However, not every deviation from the IEP results in a denial of FAPE. *See I.Z.M. v. Rosemount-Apple Valley-Eagan Pub. Schs.*, 70 IDELR 86 (8th Cir. 2017). Only material implementation failures qualify as a denial of FAPE. *See e.g., Van Duyn v. Baker Sch. Dist. 5J*, 47 IDELR 182 (9th Cir. 2007), *reprinted as amended*, 107 LRP 51958, 502 F.3d 811 (9th Cir. 2007). "A material failure occurs when there

is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP.” *Id.*

Substantively, the March 2024 IEP was not reasonably calculated to enable Student to make progress appropriate in light of their circumstances, resulting in a denial of FAPE.

Moreover, the LEA’s failure to provide speech services for a significant period during the 2024-25 school year was a material implementation failure that further contributes to a denial of FAPE.

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

Summary of Citations

IDEA/State Rule Provisions Violated	Description of Violation
34 C.F.R. §§ 300.320 and 300.324 6.31.2.11 NMAC	The LEA failed to develop an IEP reasonably calculated to meet Student’s unique needs.
34 C.F.R. § 300.323 6.31.2.11(B)(1) NMAC	The LEA failed to properly implement Student’s IEP.
34 C.F.R. § 300.101 6.31.2.8 NMAC	The LEA’s actions and/or omissions towards the Student resulted in a denial of FAPE to the Student.

Required Actions and Deadlines

By July 25, 2025, the LEA’s Special Education Director must assure the OSE in writing that the LEA will implement the provisions of this Corrective Action Plan (CAP). The OSE requests that the LEA submit all documentation of the completed corrective actions to the individual below, who is assigned to monitor the LEA’s progress with the Corrective Action Plan and to be its point of contact about this complaint from here forward:

Dr. Elizabeth Cassel
Corrective Action Plan Monitor
Office of Special Education
New Mexico Public Education Department
300 Don Gaspar Avenue
Santa Fe, NM 87501
Telephone: (505) 490-3918
Elizabeth.Cassel@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 LEA 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 July 11, 2026 and reported to the OSE no later than July 25, 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 LEA</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 LEA will submit a written assurance to the PED Corrective Action Plan Monitor that it will abide by the provisions of this Corrective Action Plan (CAP).	July 21, 2025	Written Assurance Letter/Email	July 21, 2025
2.	The LEA Special Education Director and the school principal shall meet virtually with the OSE CAP Monitor to review the Complaint Resolution Report, the Corrective Action Plan, and any other measures that the LEA plans to take to ensure that the violations are corrected and do not recur. The LEA Director has the discretion to include other LEA or	July 25, 2025	Notes from meeting prepared by LEA	Within 7 working days of the meeting.

Step No.	<u>Actions Required by LEA</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	school administrators or personnel in this meeting. The LEA Director shall be responsible for arranging this virtual meeting with OSE.			
3.	The LEA Special Education Director will meet with the Student's special education teachers and related service providers to review the Complaint Resolution Report to ensure that those persons understand the complaint, the violations that were found, and the corrective action that will be taken to address the violations.	July 31, 2025	Notes from meeting prepared by LEA	Within 5 days of meeting
4.	<p>The LEA shall convene an IEP meeting for Student. The meeting shall address, at minimum:</p> <ol style="list-style-type: none"> 1. Plan for compensatory education required by Step 5. <p>LEA shall ensure a meeting notice is provided in advance of the meeting, pursuant to 34 C.F.R. § 300.322. Note: If mutually agreeable to Parent and required staff, meeting may be rescheduled within 10 school days of proposed date.</p> <p>LEA shall ensure that a copy of IEP is provided to Parent at end of meeting.</p> <p>LEA will also ensure that Parent's preferred mode (hard copy and/or electronic) of communication is</p>	August 8, 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 IEP meeting is held

Step No.	<u>Actions Required by LEA</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	established, including language, and a plan put in place to both follow Parent's preferences and that plan is communicated to all teachers and service providers of Student.			
5.	<p>The LEA shall provide Student 72 hours of speech compensatory services.</p> <p>The compensatory services shall be documented in the PWN for the IEP meeting.</p> <p>LEA shall maintain a PED-approved tracker that includes the total compensatory hours owed and provided to each student based on missed services as well as student need, whether those hours were accepted by the student's parents, and the provision of compensatory education hours provided to each student.</p> <p>If a parent declines compensatory education, the LEA shall get a confirmation in writing and provide the written confirmation to PED.</p> <p>Any compensatory services provided prior to the date of this decision may count towards the hours required and provided.</p> <p>These compensatory services are above and beyond the regular services required by Student's IEP. The schedule for compensatory services should be developed in</p>	July 11, 2026	<p>Monthly documentation of delivery/provision of compensatory education services, including logs of services recorded in the PED-approved Excel spreadsheet log and a summary progress report submitted each quarter provided by the OSE CAP monitor.</p> <p>Prior Written Notice containing plan for compensatory services</p>	<p>Monthly from date of compensatory services plan until the compensatory education hours are completed</p> <p>7 days after the IEP meeting is held</p>

Step No.	<u>Actions Required by LEA</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	<p>collaboration with the Parent and can include provisions of services in the summer months.</p> <p>If the LEA, due to staffing or other limitations, is unable to provide the needed IEP and compensatory services as outlined in Student's IEP and the compensatory services plan, the LEA is required to contract with a private provider to ensure those services are provided.</p> <p>Partial fulfillment of any service hours shall be documented monthly using the PED-approved log, with a summary progress report submitted each quarter.</p>			
6.	<p>LEA shall arrange training for school staff (including special education teachers, special education administrators, and related service personnel) to be provided by a person with expertise in special education.</p> <p>The training materials/presentation will be provided to CAP Monitor for approval before use.</p> <p>The training shall address the following special education topics:</p> <ol style="list-style-type: none"> 1. IEP implementation; and 2. IEP development, specifically ensuring the IEP includes supports and services for all areas of need. <p>LEA shall also submit a plan for ensuring ongoing training of new</p>	August 12, 2025	<p>Submission of proposed trainer and trainer's resume and proposed presentation for NMPED approval.</p> <p>Confirmation of the date of the training.</p> <p>Confirmation of attendees at the training and plan for addressing the provision of training to those staff not in attendance.</p>	<p>July 21, 2025</p> <p>July 21, 2025</p> <p>Within 10 days of training.</p>

Step No.	<u>Actions Required by LEA</u>	<u>Complete Actions By</u>	<u>Documents Required to be Submitted to PED OSE</u>	<u>Document Due Date</u>
	hires or staff unable to attend the training.			

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

Investigated by:

/s/ Emily Adams

Emily Adams, Esq.

Complaint Investigator

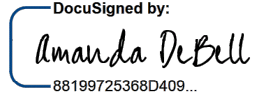
Reviewed by:

/s/ Natalie Campbell

Natalie Campbell, Esq.

Chief Counsel, Office of Special Education

Reviewed and approved by:

DocuSigned by:

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Ms. Amanda DeBell

Deputy Cabinet Secretary, New Mexico Public Education Department