



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
Los Lunas Schools
Case No. 2425-69
July 25, 2025**

This Report does not require corrective action.

On May 28, 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 LEA'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 LEA's compliance with federal IDEA regulations and state NMAC rules;
- interview with School Principal on June 30, 2025;
- interview with the Inclusion Support Coach on June 30, 2025;
- interview with Parent on June 30, 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. For these reasons, the Complaint Investigator did not investigate alleged questioning of Student regarding May 2025 behavior incident.

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 conducted a functional behavior assessment (FBA) or reviewed Student's behavior intervention plan (BIP), if any, after determining Student's conduct was a manifestation of Student's disability, pursuant to 34 C.F.R. § 300.530(f)(1).
2. Whether the LEA returned Student to the placement from which the Student was removed, after determining Student's conduct was a manifestation of Student's disability, pursuant to 34 C.F.R. § 300.530(f)(2) and 6.31.2.11(F)(2) NMAC.
3. Whether the LEA was required to and/or did provide Student educational services to enable Student to continue to participate in the general education curriculum and progress towards Student's annual individualized education plan (IEP) goals following a disciplinary change in placement in May 2025, pursuant to 34 C.F.R. § 300.530(d)(1) and 6.31.2.11(F)(3) NMAC.
4. Whether the LEA reviewed and revised Student's IEP, as appropriate, to address Student's behaviors, pursuant to 34 C.F.R. § 300.324(b) and 6.31.2.11(B) and (F)(1) 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 is currently 13 years old and is classified as a student with a disability under the primary classification of other health impairment.
2. Throughout the 2024-25 school year, two behavior incidents have been documented. The first incident occurred on February 27, 2025, and the second incident occurred on May 6, 2025.
3. At the time of both behavior incidents, an IEP dated February 18, 2025, was in effect. The IEP indicated that Student's behaviors impeded learning. Behavior supports in the form of accommodations, a behavior-related goal, and social work special education services were included in the IEP.
4. Regarding the February 27, 2025, behavior incident, Student was suspended for five school days for Student's involvement in a physical altercation with a peer.
5. Regarding the May 6, 2025, behavior incident, Student wrote an email to Student's teacher that contained profanity directed at the teacher. As a result, Student was suspended for five school days.
6. Student did not attend school from May 7, 2025, through May 14, 2025. Student was in attendance on May 15, 2025.
7. The incident and the decision to suspend Student for the May 6, 2025, incident was communicated to Parent on May 15, 2025. Student was to serve the suspension from May 16, 2025, through May 22, 2025.
8. Following notification of Student's suspension, Parent sent an email expressing their concerns regarding, in part, the lack of a manifestation determination review (MDR) and denial of FAPE. In response, District scheduled an MDR to be held on May 21, 2025.
9. A MDR meeting was held on May 21, 2025. The team determined that Student's conduct was a manifestation of Student's disability. Following this determination, an amendment was made to the February 18, 2025, IEP. However, no changes were actually made to the IEP at that time.
10. The PWN regarding the MDR and IEP amendment states, in part:
 - a. Student has not been suspended for more than ten days. Therefore, Student will not be provided compensatory time for the suspension served.
 - b. Student will be permitted to return to school on May 23, 2025.
 - c. A subsequent meeting will be held to review IEP accommodations in order to meet Student's needs during the 2025-26 school year.

11. Despite finding Student's conduct was a manifestation of Student's disability, Student served a fifth day of suspension on May 22, 2025. LEA indicated because Student had not been suspended for more than ten school days, the final day of suspension on May 22, 2025, was appropriate.
12. The last day of school was on May 23, 2025. Student did not attend.

Discussion and Conclusions of Law

Issue No. 1

Whether the LEA conducted a functional behavior assessment (FBA) or reviewed Student's behavior intervention plan (BIP), if any, after determining Student's conduct was a manifestation of Student's disability, pursuant to 34 C.F.R. § 300.530(f)(1).

The IDEA includes provisions governing the discipline of children with disabilities to ensure that a child with a disability is not punished for behaviors that are a result of the child's disability. 71 Fed. Reg. 46720 (Aug. 14, 2006).

An MDR examines whether a child's misconduct was directly and substantially related to the child's disability. 34 C.F.R. § 300.530(e)(1). An MDR must be held within ten school days of "any decision to change the placement of a child with a disability because of a violation of a code of student conduct" *Id.* A change of placement occurs if a disciplinary removal is for more than ten consecutive school days or if the child has been subjected to a series of disciplinary removals that constitutes a pattern. 34 C.F.R. § 300.536.

The LEA was not required to conduct an MDR following the May 6, 2025 disciplinary removal. At that point, there had not been a disciplinary removal for more than ten consecutive school days nor had Student been subjected to a series of disciplinary removals that constituted a pattern, resulting in a change of placement. While the IDEA does not preclude a school district from convening an MDR before a change in placement occurs, caution should be used so as not to subvert the spirit of IDEA in doing so. *See e.g., North Middlesex Regional Sch. Dist.*, 119 LRP 39609 (SEA MA 8/9/19).

The requirements that attach to an MDR finding of manifestation requiring an FBA and prohibiting discipline do not attach when an MDR is not required.

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

Issue No. 2

Whether the LEA returned Student to the placement from which the Student was removed, after determining Student's conduct was a manifestation of Student's disability, pursuant to 34 C.F.R. § 300.530(f)(2) and 6.31.2.11(F)(2) NMAC.

The regulations and findings under Issue No. 1 are incorporated herein.

As to Issue No. 2, the LEA is not cited.

Issue No. 3

Whether the LEA was required to and/or did provide Student educational services to enable Student to continue to participate in the general education curriculum and progress towards Student's annual individualized education plan (IEP) goals following a disciplinary change in placement in May 2025, pursuant to 34 C.F.R. § 300.530(d)(1) and 6.31.2.11(F)(3) NMAC.

The regulations and findings under Issue No. 1 are incorporated herein.

The IDEA requires that when a child is removed from their current placement, pursuant to a disciplinary removal that exceeds 10 school days, the child must continue to receive educational services. 34 C.F.R. § 300.530(d)(1). *See also* 6.31.2.11(F)(3) NMAC.

Here, Student had not been removed from their current placement for more than 10 school days. Therefore, the LEA was not required to continue to provide educational services during the removals.

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

Issue No. 4

Whether the LEA reviewed and revised Student's IEP, as appropriate, to address Student's behaviors, pursuant to 34 C.F.R. § 300.324(b) and 6.31.2.11(B) and (F)(1) NMAC.

The IDEA requires the IEP team to review and revise a student's IEP to address, in part, the student's anticipated needs or "other matters." 34 C.F.R. § 300.324(b)(ii).

Following the MDR meeting, an IEP meeting was held. Although no changes were made to the IEP, the team did agree to reconvene at a later time to ensure the IEP was amended to best meet Student's needs during the 2025-26 school year. Given there were only two days left of school at the time the MDR/IEP meetings were held, the team's determination to reconvene at a later time was appropriate. Therefore, there is no violation found.

District is encouraged to hold an IEP meeting within two weeks of the start of the school year to ensure Student's IEP is appropriate to address Student's needs. A subsequent IEP meeting can be held after the triennial evaluation is completed.

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.

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).

As there are no substantive or procedural violation findings, Student was not denied FAPE.

As to Issue No. 5, the LEA is not cited.

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

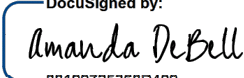
Reviewed by:

/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