



April 8, 2025

Sent via US Mail and/or SMFTS



THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

RE: **FINAL REPORT:** In the Matter of [REDACTED] 2025-02, Alleged Violations of the Individuals with Disabilities Education Act (IDEA) and Montana special education laws.

This is the Final Report pertaining to the above-referenced state special education complaint (Complaint) filed pursuant to the Administrative Rules of Montana (ARM) 10.16.3662. [REDACTED] (Complainant), filed the Complaint on behalf of his child, [REDACTED] (Student), a student in the [REDACTED] Public Schools (District). The Complainant alleges the District violated the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. 1400 et seq., Montana special education laws, Title 20, Ch. 7, Montana Code Annotated (MCA), and corresponding regulation at 34 Code of Federal Regulations (CFR) Part 300 and Administrative Rules of Montana (ARM) 10.16.3007 et seq. The Complaint alleged the following issues:

1. Whether the District failed to implement the IEP and provide Student services during December 16 through December 20, 2024.
2. Whether the District unilaterally amended the IEP without parental consent in violation of ARM 10.16.3505.
3. Whether the District failed to provide Student services after Student was removed from Student's current placement for 10 cumulative school days in violation of 34 CFR 300.530(d)(4).
4. Whether the District failed to conduct a reevaluation in violation of 34 CFR 300.303(b)(2).
5. Whether the District failed to provide the Student access to the general education curriculum after being moved to an interim alternative setting in violation of 34 CFR 300.530(d)(1)(i).

Procedural History

1. The Office of Public Instruction (OPI) Dispute Resolution Office received the signed Complaint by the Complainant on January 31, 2025.
2. The OPI Dispute Resolution Office contacted the District on February 3, 2025, and the District had not received a copy of the Complaint as required by CFR 34 CFR 300.153(d) and ARM 10.16.3662(3).
3. The OPI Dispute Resolution Office issued a Notice of Filing on February 5, 2025. Because the District had not received a copy of the Complaint, the OPI determined the filing date by adding three days from the date OPI mailed the Complaint to the District. See OPI's Frequently Asked Questions: IDEA State Complaints, Question 13, <https://opi.mt.gov/Portals/182/Page%20Files/Special%20Education/IDEA%20Fiscal/2024.05.20%20State%20Complaint%20FAQs%20Rev.%204.%202024.pdf?ver=2024-05-23-160613-020> (*last visited April 3, 2025*). The Complaint was deemed filed on February 8, 2025.
4. A Request for District Response and Scope of Proceedings was issued on February 20, 2025. It was noted that the Early Assistance Program (EAP) determined that any attempt to mutually resolve the matters alleged in the Complaint would be futile and the Complaint moved forward to the investigation phase.
5. The February 20, 2025 Scope of Proceedings included a typographical error in Issue 1. The Complaint alleged that no vocational/career services were provided for the week of December 16 through December 20, 2024. Issue 1 incorrectly stated “[w]hether the District failed to implement the IEP and provide Student services during December 16 through *December 24, 2024*” (*emphasis added*). This Final Report has corrected Issue 1 and states “[w]hether the District failed to implement the IEP and provide Student services during December 16 through *December 20, 2024* (*emphasis added*).
6. The District submitted a written response to the issues in the Complaint on February 28, 2025.
7. The OPI appointed an investigator to conduct the complaint investigation on March 4, 2025.
8. On March 26, 2025, the Student reached the age of majority, and all rights accorded to his Parents, including Complainant, under the IDEA transferred to the Student. ARM 10.16.3502; 34 CFR 300.520. On March 27, 2025, the OPI Dispute Resolution Office sent a letter informing Student that in order to share any personally identifiable information with Complainant, OPI needed his written consent pursuant to 34 CFR 99.30 and 34 CFR 300.622, and that the Final Report could only be provided to the Complainant if OPI received consent from the Student. The OPI received written consent from the Student on April 4, 2025.

Investigatory Process

The investigator reviewed the following records:

- The original letter of Complaint and all supporting documentation;
- The District's Response to the Complaint and all exhibits; and
- The education records relevant to this investigation.

The investigator interviewed the Complainant and Student telephonically.

The investigator interviewed the District Special Education Director, Assistant Principal and Special Education Teacher with counsel present via Zoom.

The OPI provided the Complainant and the District with the opportunity to submit additional information for consideration during the complaint investigation.

Applicable Federal Regulations, State Statutes or Rules

34 CFR 300.324	Development, review, and revision of IEP
34 CFR 300.303	Reevaluations
34 CFR 300.530	Authority of school personnel
ARM 10.16.3505	Parental consent

Relevant Time Period for Investigation

Pursuant to 34 CFR 300.153(c) and ARM 10.16.3662, OPI has the authority to investigate alleged violations of IDEA and Montana special education laws that occurred within one year prior to the date the complaint was filed. In accordance with this limitation, the investigation and any findings of noncompliance will be limited to the period of time commencing February 8, 2024, through February 8, 2025. Additional information beyond this timeframe was considered for the purpose of fully investigating the complaint.

Findings of Fact

1. The Student was in the 10th grade and attended one of the District's high schools (School). The Student was identified as a learner with a cognitive delay and a speech-language impairment. *District Response, October 25, 2023 IEP.*
2. Relevant portions of the Student's October 25, 2023 IEP in effect at the beginning of the Complaint timeframe, included:
 - a. An informal transition assessment listed the Student's interests as working with hands but nothing too physical. He stated answering the phone, being a receptionist, or helping organize things are all skills he could do. The Student volunteered at the food bank and was a member of the lunchroom crew. The

Student was passing all courses with the exception of math. After high school, the Student aspired to live independently and take care of his own needs. Measurable postsecondary goals were developed in the areas of Education/Training, Employment and Independent Living Skills.

- b. Four measurable annual goals were developed in the following areas:
 - i. Career/Vocational: Improving ability to complete job applications.
 - ii. Math: Independently develop a budget, track expenses, and determine if the budget was met.
 - iii. Reading: Increasing comprehension of a variety of printed materials.
 - iv. Written Expression: Writing a letter, including a greeting, body and closing.
- c. Special education services were provided throughout the Student's day in the special education setting in the areas of career/vocational, math, reading, and written expression. The Student had transportation as a related service.
- d. On Statewide assessments, the Student participated in the Alternate Assessment.
- e. The Student was supported through a variety of supplementary aids and services, including:
 - i. Classroom: extended time at Student's request to complete tests, provided written directions, text to speech or read aloud assessments, test retake option, access to a scribe, allowed to make up work and have modified assignments.
 - ii. Health: allowed to carry/access rescue inhaler, adjusted activity level as tolerated, access to nurse's office without delay, no penalty for absences related to asthma or illness, allowed to stay inside if temperature is below 20 degrees, and kept away from sick students.
 - iii. Instructional: written directions provided, additional time, text to speech, choice of handwritten or keyboard responses, use of a calculator, preferred seating, small group teaching, frequent checks for understanding, retake test options, and written class notes to enhance the Student's notes.
- f. The Complainant and the District agreed that a reevaluation to determine eligibility was unnecessary.

District Response, October 25, 2023 IEP.

- 3. Prior Written Notice (PWN) dated October 25, 2023, documented the IEP Team's review of the Student's IEP, acknowledged the Student was participating in a vocational track for

graduation, updated and developed goals that reflected the Student's interests, and indicated that if any of the Student's needs changed, the Team would reconvene. The Complainant signed approval of the IEP on October 25, 2023. *District Response, October 25, 2023 IEP.*

4. District Staff explained the Student's attendance had been an ongoing concern. School Staff described various activities, including attendance plans, and incentives that had been used to encourage the Student to attend school. The Complainant indicated the Student missed a significant amount of school during the 2023-2024 school year. *Interviews.* Attendance records provided by the District indicated that the Student missed certain classes for 46 days during the second semester of the 2023-2024 school year. *Attendance Records.*
5. At the beginning of the 2024-2025 school year, the Student was in the 11th grade and continued to receive services as a student with a disability. During the first eight weeks of the 2024-2025 school year, the Student was absent 19 days (of the morning four class periods), and 23 days (of the afternoon four class periods) respectively. Specific reasons for those absences included illness for two days, medical waiver for one day and the rest were unexcused (truant). *District Response, 2024-2025 School Calendar; Attendance Records.*
6. A disciplinary log provided by the District recorded six entries during this same time period, September 2, 2024 to October 21, 2024:
 - a. September 11, 2024 – Student was assigned 3 lunch detentions for skipping school on September 10, 2024.
 - b. September 12, 2024 – Student skipped lunch detention.
 - c. September 18, 2024 – Student skipped lunch detention and school. A voice message was left for Complainant at 12 p.m. Student was assigned Friday school
 - d. September 20, 2024 – Friday School – Student never showed to Friday School.
 - e. October 1, 2024 – Student was asked to come down to the office so he could call dad from his cell phone. Student refused. It was requested Student call because the District could not get a hold of Complainant. The District was trying to set up a meeting but was not able to do so, due to not being able to get a call back from Complainant.
 - f. October 21, 2024 – A voicemail was left for Complainant regarding Student's attendance.

District Response, Disciplinary Log.
7. The IEP team reconvened on October 23, 2024, to develop the Student's annual IEP. Salient portions of the IEP are summarized below:

- a. The Complainant expressed concern with the Student's social skills and the fact the Student didn't like being around other people. School Staff indicated the Student struggled to make a consistent effort. However, it was noted when he was in class, he worked hard. It was acknowledged that the Student had a lot of potential. On the most recent Districtwide assessment, the Student was above the 25 percentile in both math and reading. However, it was stated that academically he is below the level of his same aged peers in math, career vocational skills and written expression.
- b. The Student's post-secondary goals were updated based on an Interest Inventory assessment taken in September 2024. The Student wants to get a job and get out in the workforce. Eventually, he plans to live independently with friends but wouldn't mind remaining at home for a while. The Student had post-secondary goals in education/training and employment. The IEP indicated the Team determined independent living skills were not appropriate.
- c. The Student had earned 11 credits and needed 10 more for graduation.
- d. Annual goals were developed in the following areas:
 - i. Career/Vocational: Work completion.
 - ii. Math: Complete real life math equations.
 - iii. Self-Help/Independence: Increase ability to take support or instruction.
 - iv. Written Expression: With the assistance of a graphic organizer, improve composition writing.
- e. Special Education services are delivered in the special education setting in the following areas, written expression, math, career vocation and self-help independence.
- f. Supplementary Aids and Services included instructional supports, specifically time and a half on assignments and assessments, and notes provided when student asks for them and reduced distractions.
- g. It was documented that the District and Complainant agreed that a reevaluation was unnecessary at this time.

District Response, October 23, 2024 IEP.

8. A PWN dated October 23, 2024, proposed the Student continue receiving support in the areas of math, career, vocational, and written expression. Within the other relevant factors section, it was noted the Student had inconsistent attendance which hindered his ability to learn necessary skills to compete in the workforce. The IEP was signed and approved by the

Complainant at the meeting, but the date of the signature was inadvertently left off. *District Response, October 23, 2024 IEP and Prior Written Notice; Complainant Supplemental Information.*

9. The IEP Notes explained that the Team recommended that the Speech Language Therapist continue to work on a consultative basis with the Student's classroom teachers to embed activities in the Student's daily routine. This was to be provided for up to 20 minutes per month. *District Response, October 23, 2024 IEP.*

10. The record included three additional disciplinary log entries in November.

- a. November 6, 2024 – Student was assigned lunch detention due to skipping school.
- b. November 12, 2024 – Student skipped lunch detention and was assigned in school suspension (ISS) on November 8.
- c. November 12, 2024 – Student did not show up for ISS.

District Response, Disciplinary Log.

11. On November 12, 2024, an incident report noted the Student was suspended for harassment, bullying and intimidation. It was explained the Student posted threats, and a Staff member's phone number on social media. The Student was suspended for 6 days. *District Response, Incident Report.*

12. Although the Student was initially suspended for 6 days, the District explained the Student was not allowed back on campus until the manifestation determination review (MDR) meeting was held, a determination was made, the due process disciplinary hearing (disciplinary hearing) was conducted, and necessary IEP amendments were completed. *Interviews.*

13. A MDR report dated November 18, 2024, stated the Student was suspended on November 12, 2024. The Complainant was notified by phone on November 12, 2024, and sent a letter on November 13, 2025. The specific behavior that resulted in the suspension was stated as a violation of School Policy 3210 Harassment, Intimidation and Bullying. *District Response, Manifestation Determination.*

14. During the MDR meeting, relevant information was reviewed, including the Student's IEP and placement, unique circumstances that resulted in the Student's behavior, teacher and related service input, classroom-based assessments, relevant information provided by the Complainant, and an anonymous letter of concern. It was determined the conduct was not a manifestation of the Student's disability. Although Complainant participated in the meeting, he disagreed with the outcome and did not sign the Manifestation Determination report as a participant. *District Response, Manifestation Determination.*

15. A District discipline hearing was held after the completion of the MDR. District Staff and Complainant indicated the meeting ended with the hearing officer making a recommendation that for safety reasons the Student should not be returned to the School. *Interviews*.
16. Attendance records documented the Student was marked suspended Tuesday, November 12 through Friday, November 22, 2024. Additionally, the Student was marked absent Monday, November 25 through Wednesday, December 11, 2024. The Principal noted that the Student should have been marked suspended not absent during this period of time. The online District calendar noted there was no school November 27-29. *District Response, Attendance Records; 2024-25 School Calendar; Interviews*.
17. The IEP team reconvened on December 6, 2024, to amend the Student's IEP based on the outcomes of the MDR meeting and discipline hearing, including changing the placement of the Student. Participants included the Complainant, Principal, General Education Teacher and Case Manager. The Team completed an amendment, placing the Student outside of the school setting at the District's alternative placement for students who had been removed due to disciplinary incidents. It was noted students with and without disabilities attended the alternative placement. The Team discussed placing the Student on homebound services but determined the alternative placement was more appropriate. Student's IEP services minutes were reduced to accommodate his abilities within the new placement. *District Response, December 6, 2024 IEP Amendment (note the amendments were incorrectly dated October 25, 2024)*.
18. District Staff described the alternative placement as in person school with access to virtual learning. Students typically focused on one to two classes and completed them for credit before moving on with additional courses. During the school day, the students also participated in career exploration and vocational opportunities. *Interviews*. The Student indicated that he worked online in math and English while in the alternative placement. District Staff, Complainant and Student indicated the Student's day included health and wellness activities and career vocational opportunities. *Interviews*.
19. On December 12, 2024, the Complainant, Student and the Special Education Teacher at the alternative placement met for an intake meeting. During the meeting the Teacher explained the rules, expectations, and outlined the structure of the Student's day. The Teacher, Complainant and Student signed the agreement for attendance. Attendance records indicated the Student began attending on December 16, 2024. The Student stated he began attending school at the alternate placement the week before holiday break. Attendance records indicated the Student was in school December 16 through December 20, 2024, the week

- before holiday break. The Special Education Teacher maintained she started working with the Student on December 16, 2024. *District Response, p. 2 and Attendance Records; Interviews.*
20. The District acknowledged the Student did not receive special education and related services during his suspension which began with the November 12, 2024 discipline incident and continued until the Student began attending school at the alternative placement on December 16, 2024. The Student was out of school for 21 school days. *District Response, p. 2.*
 21. During the time Student was at the alternative placement from December 16, 2024, until the January 25, 2025, the end of the first semester, he missed 13 days of school. *District Response, Attendance Records.* The District indicated that it began scheduling a meeting with the Complainant to determine the Student's placement for the second semester, but it took some time to schedule and reconvene the IEP Team. On January 31, 2025, the District emailed Complainant to reschedule an IEP Team meeting that was canceled at Complainant's request. *District Response, January 31, 2025 Email.*
 22. On February 7, 2025, the IEP Team convened, including the Complainant, and determined the Student should return to the School for the second semester of the 2024-2025 school year. The IEP was amended to reflect the Student would receive services in the areas of math, written expression and career/vocational skills. The Complainant signed the IEP Amendment on February 7, 2025. *District Response, February 7, 2025 IEP Amendment.*
 23. Although outside the timeframe of this Complaint, the District requested the Complainant's consent to conduct a comprehensive evaluation on February 13, 2025. *District Response, 2025 Evaluation Plan.* On February 18, 2025, the Complainant gave permission for the Student to be evaluated in the areas of academic achievement, behavior, communication, and social/emotional on February 18, 2025. *District Response, 2025 Evaluation Plan.*

Conclusions

1. The overarching purpose of the IDEA is to ensure that an eligible student with a disability has Free Appropriate Public Education (FAPE) available to them, including special education and related services that meet the unique needs of the individual student. 34 CFR 300.1.
2. FAPE must be individually designed to meet the unique needs of an eligible student, and a school district must offer an IEP that is reasonably calculated to enable a student to make progress appropriate in light of the student's unique circumstances. *Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley*, 553 IDELR 656, 458 U.S. 176, (1982) and *Endrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174, 580 U.S. 386 (2017).

3. According to the Supreme Court in *Endrew F.*, an IEP is a snapshot, not a retrospective view, meaning that whether an IEP is reasonably calculated to provide educational benefit is a standard judged by information known at the time the IEP was written. It requires prospective judgment by school officials, informed by their own expertise and the views of the parent or guardian. *Endrew F.* 580 U.S. at 387, *citing to Rowley*, 458 U.S. at 204.

IEP Implementation

4. The IDEA demands that special education and related services are provided in conformity with an IEP that meets the requirements of 34 CFR 300.320 through 300.324. 34 CFR 300.17(d). Public agencies must implement the IEP as written for each student. When looking at whether a public agency's failure to implement the IEP denies a student FAPE, the United States Ninth Circuit Court of Appeals in *Van Duyn v. Baker School District*, 502 F.3d 811, 47 IDELR 182, *amended* (9th Cir. 2007), adopted the materiality standard. If a material failure to implement the IEP is found, it may be considered a denial of FAPE. "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." *Van Duyn*, 502 F.3d at 822.
5. The Student had an IEP throughout the entirety of the Complaint timeframe. Attendance records indicate the Student was present December 16, 2024, through December 20, 2024, although attending school in an alternative educational placement. Additionally, District Staff and the Student affirmed the Student was in school and received services. There is no violation. The Student received services according to his IEP on December 16, 2024, through December 20, 2024.

Disciplinary Removals

6. The IDEA does not require the continuation of education services for students with disabilities suspended for 10 cumulative school days or less in a school year, unless it provides services to children without disabilities who are similarly removed. 34 CFR 300.530(d)(3). When a student with disabilities violates a code of conduct, the student may be removed from their current educational placement to the same extent as children without disabilities, until there is a change of placement. 34 CFR 300.530(b)(1). A change of placement occurs when the removal is for more than 10 consecutive school days, or the child has been subjected to a series of removals that constitute a pattern. 34 CFR 300.536(a). Initially, the Student was removed for six days, which would not have been considered a change of placement. However, in anticipation of the Student being removed longer due to the nature of the violation and the required District discipline procedures, the District considered the

November 12, 2024 disciplinary incident a change of placement and proceeded to schedule a manifestation determination meeting.

7. When a change of placement occurs due to disciplinary removals, then the District must convene a manifestation determination (MDR) meeting within 10 school days. 34 CFR 300.530(e). The MDR meeting participants include the parent and relevant members of the IEP team. 34 CFR 300.530(e). The participants must consider all relevant information in the child's file, including, but not limited to, the IEP, any teacher observations and relevant information provided by the parents, to determine if the conduct was a manifestation of the child's disability. The conduct in question is a manifestation of the student's disability when it was caused by or had a direct and substantial relationship to the child's disability, or the conduct was the district's failure to implement the IEP. 34 CFR 300.530(e)(2). In this case, the District conducted an MDR and determined that the Student's conduct was not a manifestation of the Student's disability.
8. After the determination that the Student's actions were not a manifestation of his disability, the District proceeded on with a disciplinary hearing. The hearing officer recommended the Student be placed in the District's alternative disciplinary program. To adjust the Student's IEP based on the disciplinary hearing's results, the IEP Team reconvened and proposed an IEP amendment. Prior to beginning the disciplinary placement, an intake meeting was held with the Student and Complainant. These various meetings and hearings required a significant amount of time. This led to the Student being removed from his educational setting for 21 school days.
9. Once a student has been subjected to disciplinary removals for 10 days, the student must continue to receive educational services to enable the child to continue to participate in the general education curriculum, although in an alternative setting, and to progress toward meeting the goals in the student's IEP. 34 CFR 300.530(d). After a child has been removed for 10 days in one school year, school personnel in consultation with at least one teacher determine the extent of services needed to enable the child to participate in the general education curriculum and make progress toward IEP goals. 34 CFR 300.530(d)(4).
10. The District acknowledged that it did not provide the Student services as required after the first 10 days of the Student's suspension. This resulted in a violation.
11. While attending the alternative disciplinary placement, the Student's IEP, including the December 6, 2024 amendment, was implemented. The District reported the Student worked in the general curriculum through an online district program to recover credits towards graduation. Due to the structure of the program, Staff reported students typically

worked on two classes at a time. Once those were completed, then they chose other courses needed for graduation. In this matter, the Student worked on math and English credits. The Student continued to have access to vocational opportunities and physical activity. The record supports the District's alternative disciplinary placement provided the Student access to the general education curriculum.

Parent Consent for Services

12. Montana law goes beyond the parental consent for services requirements of the IDEA set out in 34 CFR 300.300(b), which require informed consent for the initial provision of special education and related services and requires parental consent prior to implementing any changes to an IEP. ARM 10.16.3505.
13. During the time period relevant to this Complaint, the IEP Team convened to amend the Student's IEP twice, once in December 2024 and again in February 2025. Each time the Student's IEP was amended, the Complainant provided his consent for the District's proposed amendment. The record does not support a finding the Student's IEP was unilaterally amended.

Reevaluation

14. A district must ensure that a reevaluation is conducted if it determines that the educational or related services needs, including improved academic achievement and functional performance of the child, warrant a reevaluation, or if the child's parent, or teacher requests a reevaluation. 34 CFR 300.303(a).
15. A reevaluation must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary. 34 CFR 300.303(b)(2).
16. "The IEP team should consider a student's excessive absences when the student's absences are adversely affecting the student's learning. If a student's behavior impedes their learning or the learning of others, then the IEP team must consider the use of positive behavior interventions and supports, as well as other strategies to address the behavior. An IEP team may need to consider additional evaluations of the student to determine the cause of the behavior. Such evaluations may include, for example, functional behavioral assessments or psychological evaluations." *OPI Special Education in Montana, Student Attendance, Question 3, p. 68. See also Garris v. Dist. of Columbia, 210 F. Supp. 3d 187; 68 IDELR 194 (D.D.C. 2016) (Court held that conducting a functional behavior assessment and developing a behavior intervention plan with strategies to improve attendance was appropriate to address a student with disabilities truancy problems and the student was not denied FAPE).*
17. The October 23, 2024 IEP indicates, the Team, agreed that a reevaluation was not

necessary. Despite this documentation, the record is clear, both the District and the Complainant were aware and expressed concerns about the ongoing attendance issues. The District had a continuous obligation to address and accommodate the changing needs of the Student. The Complainant conveyed frustration that it had been several years since the Student's last evaluation. Although the Student's academic needs may not have warranted a reevaluation, it was apparent the Student was struggling with engagement and regular attendance. In this case, the District failed to acknowledge the Student's evolving needs, specifically the Student's chronic absenteeism. The District should have proposed a reevaluation.

Decision

1. Whether the District failed to implement the IEP and provide Student services during December 16 through December 20, 2024.

The OPI finds no violation. The District provided the Student services December 16 through December 20, 2024, according to the IEP amendment developed on December 6, 2024.

2. Whether the District unilaterally amended the IEP without parental consent in violation of ARM 10.16.3505.

The OPI finds no violation. All IEP amendments included parental consent.

3. Whether the District failed to provide Student services after Student was removed from Student's current placement for 10 cumulative school days in violation of 34 CFR 300.530(d)(4).

The OPI finds a violation. The District acknowledged it failed to provide services after the Student was removed from his placement for 10 cumulative school days.

4. Whether the District failed to conduct a reevaluation in violation of 34 CFR 300.303(b)(2).

The OPI finds a violation. The District should have proposed a reevaluation to determine the Student's current needs.

5. Whether the District failed to provide student access to the general education curriculum after being moved to an interim alternative setting in violation of 34 CFR 300.530(d)(1)(i).

The OPI finds no violation. The Student had access to the general education curriculum in his interim alternative setting.

Corrective Action

1. The District shall conduct a comprehensive reevaluation, to gain a clear understanding of all the Student's educational needs related to his disability.
 - a. Within 10 days of this Final Report, the IEP Team shall reconvene to plan a comprehensive reevaluation to determine the Student's current educational needs. The District shall provide the Student (IDEA Parent) with prior written notice of the proposed evaluation(s) and the information necessary to seek informed consent. Note: If the Student has been recently reevaluated in all areas of concern, including the Student's chronic absenteeism, the recent reevaluation would be considered fulfillment of this corrective action.
 - b. Within 30 days of the date of this Final Report, the reevaluation should be completed (unless the Student (IDEA Parent) declines consent), and a copy of the Evaluation Report shall be provided to the Student's current IEP Team and submitted to OPI's Early Assistance Program Director and Paralegal.
 - c. Within 10 days of receiving the reevaluation results, the IEP Team shall convene to consider the Evaluation Report and amend the IEP as determined necessary. A copy of the amended IEP shall be submitted to OPI's Early Assistance Program Director and Paralegal within five days of the IEP meeting.
2. The District shall provide the Student with compensatory services. The goal of compensatory education is to place the student in the position that the student would be in had the District provided the appropriate services in the first place. *Reid v. Dist. of Columbia*, 401 F.3d 516, 43 IDELR 32 (D.C. Cir. 2005). In light of the fact that the Student was removed for the November 12, 2024 disciplinary incident a total of 21 days, the District shall provide compensatory education for the 11 days the Student was entitled to services as follows:
 - a. 517 minutes of math instruction.
 - b. 517 minutes of written expression.
 - c. 960 minutes of career/vocational education
 - d. The District, in consultation with the Student (IDEA Parent), shall determine the schedule for provision of compensatory services considering the Student's ability to sustain his attention and his interest levels.

- e. Compensatory services shall be completed by September 15, 2025. Student's absence shall result in waiver of service for that day. Staff absence must be rescheduled. Any compensatory service declined or not utilized by September 15, 2025, shall be deemed waived (assuming the District has made a good faith effort to timely commence and provide all compensatory service).
- f. The schedule for compensatory services shall be provided to OPI's Early Assistance Program Director and Paralegal within 30 days from the date of this Final Report.
- g. Service provider logs verifying completion of the compensatory education services must be submitted to OPI's Early Assistance Program Director and Paralegal by October 1, 2025.

Note: This Final Report is final and is not subject to appeal. ARM 10.16.3662(13). Both parties retain their right to file a due process complaint after a state complaint final report is issued on the same or different issues, provided the due process complaint meets the requirements set out in 34 CFR 300.507.

Danielle McCarthy

Danielle McCarthy

OPI State Director of Special Education

- c: Mandi Gibbs, Dispute Resolution/EAP Director (via SMFTS only)
- John Gorton, School Improvement/Compliance Unit Manger (via SMFTS only)
- ██████████, District Attorney (via SMFTS only)
- ██████████, Director of Student Services & Special Education (via SMFTS only)