



August 11, 2025

Sent via US Mail and/or SMFTS



THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

RE: **FINAL REPORT** for In the Matter of [REDACTED] 2025-09, Alleged Violations of the Individuals with Disabilities Education Act (IDEA).

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 her 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 regulations at Code of Federal Regulations (C.F.R.) 34 C.F.R. Part 300 and Administrative Rules of Montana (ARM) 10.16.3007 et seq. The Complainant alleged the following issue:

Whether the District failed to implement the IEP by not providing a one-on-one aide on the bus back from the zoo field trip in violation 34 C.F.R. § 300.323.

Procedural History

1. The Office of Public Instruction (OPI) Dispute Resolution Office received the signed Complaint filed by the Complainant on June 6, 2025.
2. The OPI Dispute Resolution Office issued the parties a Notice of Filing of IDEA State Complaint, Informal Resolution Options & Partial Dismissal on June 11, 2025. Because the District had not received a copy of the Complaint, OPI determined the filing date by adding three days from the date OPI mailed the Complaint to the District, citing to OPI's Frequently Asked Questions About 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 August 6, 2025). Therefore, the Complaint was deemed filed on June 14, 2025.

3. Pursuant to 34 C.F.R. § 300.152(c)(2), in the Notice of Filing IDEA State Complaint, Informal Resolution Options & Partial Dismissal, the OPI notified the parties that two of the allegations in the Complaint occurred outside the one-year timeframe for special education complaints and were therefore dismissed.
4. A Request for District Response, Scope of Proceedings, and Appointment of Investigator (Request for Response) was issued on June 19, 2025. OPI requested the District to provide a copy of Student's IEP that was implemented on April 28, 2025, and any documentation regarding providing a one-on-one aide on April 28, 2025, to begin the investigation.
5. It was noted in the Request for Response that the Complainant communicated to the Early Assistance Program (EAP) Director that she was not interested in informal resolution and requested to proceed with the complaint process.
6. The OPI's Dispute Resolution Office received the District's written response on July 10, 2025. The Response did not include the documentation requested by OPI.
7. The Complaint Investigator contacted the District's Superintendent by email July 18, 2025, about obtaining Student's special education records; he indicated he would notify Special Education Director to contact the Complaint Investigator.
8. On July 22 and 23, 2025, the Complaint Investigator emailed the Special Education Director about obtaining Student's special education records for purposes of investigating the Complaint. The Complaint Investigator requested a time to interview the Special Education Director. The Special Education Director responded that she would reach out to the Complaint Investigator on July 23, 2025. The Complaint Investigator did not receive any phone calls or additional emails from the Special Education Director.
9. Complainant provided additional documentation to the Complaint Investigator on July 11 and 24, 2025.

Investigatory Process

The Complaint Investigator reviewed the following records:

- The original Complaint and all supporting documentation;
- The District's written response to the Complaint;

- Additional information provided by the Complainant which included Student's February 24, 2025 IEP;

The Complaint Investigator interviewed the Complainant via telephone;

The Complaint Investigator attempted to obtain educational records from the District Superintendent and to interview the District Special Education Director but requested documents were not received.

The OPI provided the parties the opportunity to submit additional information for consideration during the Complaint investigation.

Applicable Federal Regulations

34 C.F.R. § 300.17	Free Appropriate Public Education
34 C.F.R. § 300.320	Definition of Individualized Education Program
34 C.F.R. § 300.323	When IEPs Must Be in Effect

Relevant Time Period for Investigation

Pursuant to 34 C.F.R. § 300.153(c) and ARM 10.16.3661, 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 commencing June 14, 2024, through June 14, 2025. Additional information beyond this timeframe was considered for the purpose of a full investigation of the complaint.

Findings of Fact

1. At the time the Complaint was filed, Student was 10 years old and a student at the District's elementary school during the 2024-2025 school year. *February 24, 2025 IEP.*
2. Student was eligible for special education services under the categories of cognitive delay and autism. *February 24, 2025 IEP.*
3. Student's IEP dated February 24, 2025, provided in the supplementary aids and services – personnel section, that Student would have a one-on-one aide across all settings and a one-on-one adult for field trips. *February 24, 2025 IEP.*
4. Student's class participated in a field trip to a zoo in the Spring of 2025. *Interview with Complainant.*

5. Complainant was informed that the District would not have a one-on-one aide for Student on the return bus trip from the zoo. *Complaint; Interview with Complainant.*
6. Complainant did not allow Student to attend the field trip because of the lack of the one-on-one aide for the return trip on the bus. Complainant took Student to the zoo that day but did not participate with Student's class. *Interview with Complainant.*
7. The District, in its Response, acknowledged that the District's interim principal and HR director provided Complainant with inaccurate information. The District reported they were working with Complainant to resolve the issue and to collaborate on a plan to support the Student moving forward. The District assured the Complainant that the Student would receive the consistent one-on-one aide support as outlined in the Student's IEP. *District Response.*
8. Complainant confirmed that the District's Special Education Director had reached out to her to discuss future plans, but this was not a first-time occurrence that Student did not have the one-on-one aide, and she would not dismiss the Complaint. *Interview with Complainant.*

Conclusions

1. The overarching purpose of the IDEA is to ensure that an eligible student with a disability has a Free Appropriate Public Education (FAPE) available to them, including special education and related services that meet the unique needs of individual students. 34 C.F.R. § 300.1.
2. The IDEA defines FAPE as special education and related services that: (a) are provided at public expense, under public supervision and direction, and without charge; (b) meet the standards of the state education agency, including the requirements of this part; (c) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) are provided in conformity with an IEP that meets the requirements of 34 C.F.R. §§ 300.320 through 300.324. 34 C.F.R. § 300.17.
3. For each student eligible for special education and related services under the IDEA, it is the obligation of the district to convene an IEP team meeting to develop an IEP, an *individualized* education program, designed to meet the student's needs that is developed, reviewed and revised in accordance with 34 C.F.R. §§ 300.320 through 300.324. 34 C.F.R. § 300.320(a) (emphasis added). A student's IEP Team makes the determination as to what aids, services, modifications or supports are necessary and which of those must be included in the IEP.
4. As soon as possible following the development of an IEP, the special education and related services are to be made available to the student. 34 C.F.R. § 300.323(c)(2). Public agencies

must then implement the IEP as written for the student, including all required components. 34 C.F.R. § 300.17(d). In order to implement the IEP public agencies must ensure that each regular teacher, special education teacher, related services provider, and any other service provider who is responsible for the implementation of a student's IEP is informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the student's IEP. 34 C.F.R. § 300.323(d)(2).

5. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP. 71 Fed. Reg. 46667 (August 14, 2006).
6. When looking at whether a public agency's failure to implement the IEP denies a student FAPE, the Ninth Circuit 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.
7. The February 24, 2025 IEP required a one-on-one aide across all settings. It also specifically required a one-on-one aide for field trips. Complainant was notified that a one-on-one aide would not be available for the return bus trip from the zoo which prompted her to not send Student on the field trip with his class. Student did go to the zoo with Complainant that same day, but they did not participate in the field trip. The District acknowledged its mistake which led to the Student not attending the field trip because they were unable to implement the supplementary aides and services on Student's IEP, specifically, the one-on-one aide for field trips.
8. The District's error resulted in Student not experiencing one field trip with his peers, which does not rise to the level of a material failure to implement Student's IEP and therefore was not a denial of FAPE. However, the District is in violation of 34 CFR 300.323(c) for not making a one-on-one aide available in accordance with Student's IEP. The District must ensure all District staff are informed of their specific responsibilities and the Student's IEP is implemented as written.

Decision

Whether the District failed to implement the IEP by not providing a one-on-one aide on the bus back from the zoo field trip in violation of 34 C.F.R. § 300.323.

The OPI finds a violation. The District acknowledged that Student’s IEP required a one-on-one aide at all times at school and specifically on field trips. The Student did not participate in the field trip with Student’s class because there was not going to be a one-on-one aide for the Student on the returning bus trip.


Corrective Actions

The District must ensure that Student’s IEP is implemented as written and that Student has the required one-on-one aide in all settings and for field trips as stated in Student’s IEP.


1. The District must make sure that all staff involved in ensuring Student is provided a one-on-one aide are aware of the District’s obligation under IDEA to implement the IEP.
2. The District must establish a plan that ensures that Student has an aide as stated in the IEP. The plan should include how this obligation will be met when the Student’s assigned aide is absent.

The District must submit documentation of how the above requirements will be met to OPI’s Early Assistance Director by September 2, 2025. The District is reminded of its obligation to provide the information requested to the OPI as required by 34 C.F.R. § 300.211.

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 C.F.R. § 300.507.



Danielle McCarthy
State Director of Special Education

- c: Mandi Gibbs, OPI Dispute Resolution/EAP Director (SMFTS only)
John Gorton, OPI School Improvement/Compliance Unit Manger (SMFTS only)
, District Student Services Director (SMFTS only)