



October 15, 2025

Sent via US Mail and/or SMFTS



THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

RE: **FINAL REPORT:** In the Matter of [REDACTED], 2025-11, 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 [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 C.F.R. Part 300 and ARM 10.16.3007 et seq. The Complaint alleged the following issue:

Whether the District denied the Student a Free Appropriate Public Education (FAPE) by failing to ensure that the Student is educated consistent with the Least Restrictive Environment (LRE) requirements in violation of 34 C.F.R. §§300.114 through 300.117.

Procedural History

1. The Office of Public Instruction (OPI) Dispute Resolution Office received the signed Complaint on August 19, 2025.
2. The OPI Dispute Resolution Office contacted the District on August 19, 2025, and the District received a copy of the Complaint, as required by the Code of Federal Regulations (C.F.R.) 34 C.F.R. §300.153(d) and Administrative Rules of Montana (ARM) 10.16.3662(3).
3. The OPI Dispute Resolution Office issued a Notice of Filing on August 21, 2025, to the District and Complainant documenting that the Complaint was deemed filed on August 19, 2025.

4. A Request for District Response, Appointment of Investigator and Scope of Proceedings was issued on August 28, 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 would move forward to the investigation phase. The OPI Dispute Resolution Office requested the District prepare and submit a written response to the Complaint by September 7, 2025.
5. The District requested an extension to submit a written response. The OPI Dispute Resolution Office granted an extension for the written response to September 10, 2025.
6. The District submitted a written response to the issues in the Complaint on September 10, 2025.
7. A written reply to the District's Response was received from the Complainant on September 22, 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;
- The Complainant's reply to the District's Response and all exhibits; and
- The education records relevant to this investigation.

The Investigator interviewed the Complainant via Zoom.

The Investigator interviewed the District Special Education Director and a District Special Education Coordinator via Zoom with the school attorney present.

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

Applicable Federal Regulations, State Statutes or Rules

34 C.F.R. §§300.17 and 300.101 Free Appropriate Public Education

34 C.F.R. §§300.114 through 300.117 Least Restrictive Environment

Relevant Time Period for Investigation

Pursuant to 34 C.F.R. §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 August 19, 2024,

through August 19, 2025. Additional information beyond this timeframe was considered for the purpose of fully investigating the Complaint.

Findings of Fact

1. The Student is enrolled in the District and has attended the District's therapeutic day school (School) since January 2024. The School is a structured program for students with significant behavioral needs, providing daily social/emotional instruction and counseling. *District Response.*
2. At the beginning of the 2024-2025 school year, the Student received services according to a March 2024 IEP, including a May 2024 amendment. The IEP focused on social/emotional/behavior (SEB) goals and included 1800 total minutes per week (6 hours per day) of SEB support in the special education setting of the School. The service minutes are reflective of the length of day within the special education setting. The Student received grade level academic instruction and 30 minutes per week of Occupational Therapy (OT) services to support social/emotional goals. *District Response, March 19 2024 IEP amended May 8, 2024 (Exhibit E, Page 8).*
3. The School has three certified teachers, and additional behavioral support specialists, which were described as specially trained paraeducator staff. The School accommodates approximately seven to twelve elementary aged students at any one time. At the beginning of the day, students are grouped and do activities to get them ready to learn. Other instruction throughout the day, included math, English language arts, social studies, science, lunch, recess, physical education, and strongly structured centers (art, read aloud, and more science or social studies). The School has full time therapists who conduct group, individual and push in therapy. *District Interviews.*
4. When attending the School, students continue to be enrolled in their neighborhood school they attended prior to being placed in the School program. The District Special Education Director explained that students at the School access the general curriculum from their sending school. Students continue to participate in districtwide and statewide assessments in the same manner as they would if they were still attending their neighborhood school. *District Interviews.*
5. In January 2025, the District convened the IEP Team to develop the Student's annual IEP. During the meeting, the family voiced their concerns about the appropriateness of the School as a long-term placement for the Student. They questioned whether the current environment would continue to meet the Student's needs moving forward. In addition to the placement

concerns, the Team was informed of a potential family relocation stemming from pending custodial arrangements. At the end of the meeting, the District proposed a new IEP for the Student, including new SEB goals, additional OT support and added testing accommodations. *District Response, January 31, 2025 IEP* (Exhibit G, Pages 9, 11).

6. Prior Written Notice (PWN) explained that the Student was making progress but still required support with SEB skills and awareness. The Team discussed various options, including gradually transitioning the Student to his neighborhood school or another elementary school, and also considered abbreviated school days. The IEP Team acknowledged that discussions regarding the Student's placement and transition to a less restrictive environment were ongoing. All possible placement alternatives continued to be considered as part of the process. The Complainant signed consent and approved the IEP on February 4, 2025. *District Response, January 31, 2025 IEP* (Exhibit G, Page 11).
7. Immediately following the annual IEP meeting, the Complainant and the District exchanged a series of emails. The Complainant wanted to continue the discussion that started during the most recent IEP meeting. Specifically, she outlined her desire to work towards transitioning the Student to a lesser restrictive environment. The District recognized the need to think about future supports and the possibilities and requirements of supported visits to another building or school. However, District staff stated the Student continued to demonstrate a need for a therapeutic environment. The Team agreed to reconvene for a status review before Spring Break. *District Response, Emails* (Exhibit H, Pages 2-3).
8. In February 2025, the District sought consent to reevaluate the Student. The Student was due to turn nine years of age in November 2025, and because the Student was determined eligible as a student with a developmental delay, a category that only permits a student to be eligible through age eight, a reevaluation was required. Additionally, the District wanted to collect current data to assist the Team with future decisions regarding the Student's placement and address the Student's recent escalated behavior. The reevaluation included testing in academic achievement, classroom-based achievement, communication, physical, psychological, and SEB. Complainant and Student's father (Father) provided their consent for evaluation on February 18, 2025, and February 24, 2025, respectively. *District Response, Evaluation Worksheet and February 2025 Evaluation Plans*, (Exhibit I).
9. Staff stated that January through March 2025 saw increases in both the frequency and intensity of the Student's behaviors. These behaviors went beyond just not following directions, including off-task and disrespectful behaviors (which regularly included throwing items and name calling), but also included verbal and physical aggression and elopement.

Pursuant to his aversive treatment plan, there were instances when restraint and the use of isolation time out were necessary. *District Response, April 5, 2025 Evaluation Report* (Exhibit J, Page 2); *Behavior Log* (Exhibit L).

10. The Evaluation Report Team, including the Complainant and Father, convened on April 4 and 7, 2025, to review the assessments and consider the Student's continued eligibility. Salient portions of the Evaluation Report stated:

- a. Complainant doesn't think the School is the right placement for the Student next year. She expressed concerns that the Student is falling behind academically, socially is limited and appears to be withdrawing socially.
- b. Grade level reading performance was in the 38th percentile; reading accuracy was at the 28th percentile and his oral reading fluency was at the 20th percentile. As expectations increased in second grade, the Student's performance appeared to stall. Math is a strength.
- c. The Student was consistently rated (across several raters) as a student with needs in the Montana Whole Child Competencies. With an overall social emotional composite in the 4th percentile.
- d. Speech results indicated average to above average results on all subtests.
- e. The OT assessment found the Student has behavioral concerns affecting participation, sensory sensitivity that may impact tolerance of environments or stimuli, and a need for movement to support self-regulation and engagement.
- f. Psychosocial and educational assessments showed a high IQ.
- g. Behavioral evaluations placed the Student above peers in areas such as aggression, depression, social skills, conduct, and withdrawal, which affected school performance. Parent and teacher rating scales reflected similar concerns with conduct disorder and oppositional behaviors. The Team expressed differing opinions regarding the underlying cause of the Student's anxiety.
- h. The Team determined the Student eligible in the category of emotional disturbance.

District Response, April 5, 2025 Evaluation Report (Exhibit J).

11. Based on the Evaluation Report an IEP Amendment was proposed. The amendment included the following items:

- a. Change the category of eligibility.
- b. Update strengths/concerns/interests based on reevaluation results.

- c. Add self-help and independence and written expression goal areas.
- d. Add special education services supporting self-help and independence goals.
- e. Add supplementary aids and services based on recommendations from the Evaluation Report.
- f. Reconvene the Team to discuss Extended School Year (ESY) services.

District Response, January 31, 2025 IEP amended April 29, 2025 IEP (Exhibit K).

12. The Complainant and the Student's Father separately signed the IEP Amendment with exceptions. Both parents indicated exceptions with the wording of newly developed IEP goals. Additionally, Complainant disagreed with the Student's continued placement at the School and requested a change of placement and services. The Complainant suggested partial off-campus home placements with both synchronous and asynchronous instruction to increase access to full instructional hours, as the School's schedule allows less instructional time than typical elementary schools. *District Response, January 31, 2025 IEP amended April 29, 2025 (Exhibit K, Page 14).*
13. The District was aware due to a parenting plan that consent from both the Complainant and Father was required. The IEP Team reconvened on May 21, 2025, to continue the discussion regarding exceptions:
- a. The District agreed to make the changes outlined in the parents' mutually agreed upon exceptions, which were changes to goals.
 - b. IEP notes documented the Team discussed a variety of options (full day, shortened day, placement continuum), and parent options (partial enrollment, excusals, rejection of services).
 - c. Complainant wanted to discuss ways to compromise. She felt uncomfortable with the student's lack of music exposure, third grade enrichment, keyboarding, and cursive. Additional concerns were raised about reward systems and how that would work in the neighborhood school environment.
 - d. The District continued to propose the Student's placement at the School based on current behavioral information and data gathered during the most recently completed reevaluation. District staff discussed arranging "field trips" to a neighborhood school to assess the Student's participation in a less restrictive setting. The Complainant and District reported that for a variety of reasons the Student did not make any field trips to his neighborhood school during the spring of 2025.

District Response, January 31, 2025 IEP amended May 21, 2025 (Exhibit M); Interviews.

14. Following the mutually agreed upon revisions to the IEP goals, the Father provided consent to the IEP Amendment on June 6, 2025. However, the Complainant maintained exceptions to the proposed amendment, specifically expressing continued concerns regarding the Student's placement and the services outlined in the IEP. *District Response, January 31, 2025 IEP amended May 21, 2025 (Exhibit M, Page 12); Emails (Exhibit N, Page 11).*
15. In June 2025, the District was notified by the family that the Student's enrollment was not finalized for the 2025-2026 school year. The Father suggested that the IEP Team wait to meet until the Student's enrollment status had been finalized via the Court and parenting plan. *District Response, Emails (Exhibit N, page 11).*
16. The District, Complainant, and Father continued to communicate via email. A series of emails between June 6, 2025, through June 13, 2025, confirmed the Complainant was unwilling to provide consent to the Student's proposed IEP as amended. The Complainant explained the decision regarding which school district the Student would attend was with the Court. However, the big issue for the IEP Team was about placement in a special education setting versus a general education setting with support. The Complainant wanted to continue to discuss placement. *District Response, Emails (Exhibit N).*
17. The District Special Education Director explained that it took a series of conversations to determine and confirm the Student's enrollment in the District for the 2025-2026 school year. Once this had been completed, the IEP Team convened on August 25, 2025, with the assistance of an OPI provided IEP facilitator. The Team addressed ongoing concerns with the January 2025 IEP, as amended on April 29, 2025, and May 21, 2025. *District Response, January 31, 2025 IEP amended August 25, 2025 (Exhibit O).*
18. The Student's Father approved the August IEP Amendment on August 26, 2025, while the Complainant provided approval with exceptions. *District Response, January 31, 2025 IEP amended August 25, 2025 (Exhibit O, Page 22-23).*
19. The Complainant and district staff reported the Student is attending a full school day for the 2025-2026 school year. This includes starting at his neighborhood school with supports and then returning to the School for the remaining portion of the day. *Complainant and District Interviews.*

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 the individual student. 34 C.F.R. §300.1.
2. FAPE must be individually designed to meet the unique needs of an eligible student, and a district must offer an IEP that is reasonably calculated to enable a student to make progress appropriate in light of the student's unique circumstance. *Bd. of Educ. of the Hendrick Hudson Central Sch. Dist. V. Rowley*, 458 U.S. 176, 553 IDELR 656 (1982) and *Andrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386, 69 IDELR 174 (2017).
3. According to the Supreme Court in *Andrew 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. *Andrew F.*, 580 U.S. at 399, *citing to Rowley*, 458 U.S. at 207, 208-209.
4. The IDEA requires that FAPE be provided in the LRE in order to meet a student's individual needs. LRE must be an individualized determination based on the unique needs of a particular student. 34 C.F.R. §§300.114 through 300.117.
5. The LRE mandate requires that students be educated in regular classroom settings to the maximum extent appropriate. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. §300.114(a).
6. The IDEA creates a strong presumption that children with disabilities be educated in regular classes with appropriate aids and services. However, the IDEA does not mandate full inclusion in regular classes. 71 Fed. Reg. 46585-46586 (Aug.14, 2006).
7. Under the IDEA, a district must ensure that the educational placement of a student with a disability is made by a group of individuals who are knowledgeable about the child, the meaning of the evaluation data, and the placement options. The educational placement must also be based on the IEP and be the student's least restrictive environment. 34 C.F.R. §300.116.
8. However, the LRE mandate does not override the FAPE requirement. If a child's placement does not confer an educational benefit to the student and a more restrictive program is likely to provide such benefit, the child is entitled to be placed in that more restrictive

program. *Hartmann v. Loudoun County Bd. of Educ.*, 118 F.3d 996, 26 IDELR 167 (4th Cir. 1997).

9. A therapeutic placement may be necessary for FAPE if the student needs the academic and therapeutic support services offered at such a placement to access an education or make educational progress. See, e.g., *Gaston v. District of Columbia*, 2019 WL 3557246, 74 IDELR 248 (D.D.C. Aug. 19, 2019).
10. "While including students in the regular classroom as much as is practicable is undoubtedly a central goal of the IDEA, schools must attempt to achieve that goal in light of the equally important objective of providing an education appropriately tailored to each student's particular needs." *P. v. Newington Bd. of Educ.*, 546 F.3d 111, 122 51 IDELR 2 (2d Cir. 2008), citing to *Bd. of Educ. Of Murphysboro v. Ill. Bd. of Educ.*, 41 F.3d 1162, 1168 (7th Cir. 1994).
11. The IDEA requires the District to consider parental preferences but does not require the District to implement parental choices or preferences, as long as the IEP offers FAPE. *A.S. v. New York City Dep't of Educ.*, 573 F. App'x 63, 63 IDELR 246 (2nd Cir. July 29, 2014). Similarly, the IDEA does not require the District to place the Student in a preferred placement considered better by the parent. *Bradley v. Arkansas Dept. of Educ.*, 443 F.3d 965, 45 IDELR 149 (8th Cir. 2006).
12. Prior to this Complaint, and throughout the beginning of the 2024-2025 school year, the IEP Team, which included the Complainant, agreed that the School was the most appropriate placement for the Student. This decision was based on previous assessments of the Student's specific educational and behavioral needs, as well as the services outlined in the IEP. The Team carefully considered the supports and services necessary to enable the Student to access and benefit from his education, concluding that the Student needed the supports and services in the School in order to receive FAPE. The placement reflected the consensus of the IEP Team considering the Student's unique circumstances.
13. The Student's record demonstrates that the Complainant actively participated in all IEP decision-making processes on behalf of the Student. The Complainant attended Team meetings throughout the period relevant to this complaint investigation. In fact, Complainant offered her consent on February 5, 2025, that the School was an appropriate placement for the Student, while consistently advocating for the Student's placement in a regular education classroom with supplementary aids and services on a full-time basis was the preferred choice in the future. In both April and May, when the District proposed amendments to the Student's IEP following a review of the reevaluation data, the Complainant withheld consent, expressing

her preference for the Student to be placed full time in a regular education classroom and to return to his neighborhood school.

14. School districts must offer a continuum of alternative placements for students who require special education and related services. The continuum should provide a range of potential placements in which the district can implement a student's IEP. It begins with the regular classroom and continues to get more restrictive at each placement on the continuum. 34 C.F.R. §300.115(a).
15. In any placement determination for a student with a disability, consideration should be given to "any potential harmful effect on the child or on the quality of services that he or she [receives]." 34 C.F.R. §300.116(d).
16. During the January 2025 annual IEP meeting, both the Complainant and Father raised concern with the Student's continued placement at the School in the future. The District didn't disagree and within weeks sought consent for a reevaluation to determine current eligibility and need. Later in April at the completion of the evaluation, the IEP Team convened and discussed options for returning the Student to a regular education setting. The discussion included how to gradually transition the Student back to the neighborhood school and what supports would be required.
17. One significant factor complicating the Student's transition back to a neighborhood school was the ongoing uncertainty regarding which school district Student would attend for the 2025-2026 academic year. While the Complainant expressed a preference for the Student to return immediately to a general education setting, she admitted that the lack of clarity about where the Student would be attending school in the upcoming year could result in unnecessary transitions. Student's enrollment at the District was not confirmed until August 2025.
18. The IEP Team was ultimately stalled by disagreement over the transition process. According to the District, previous experience suggests that a gradual transition to a less restrictive environment is more effective than an immediate return to a neighborhood school without incremental support reductions and increased time for integration. This approach differed from the Complainant's preference, as she advocated for the Student to begin the 2025-2026 school year in a general education setting without the School staff. The Complainant requested a change in educational placement, while the District proposed implementing "field trips" or trial periods prior to any adjustment in the Student's placement.
19. The IEP Team relied on current data to inform decisions regarding the Student's placement. The District demonstrated openness to considering a less restrictive environment, and the primary disagreement centered on the procedure for increasing the Student's participation in

such an environment. The District suggested a phased reintegration of the Student into the general education setting, accompanied by ongoing monitoring. While this was not the Complainant's preferred outcome, it did not result in a violation. There is no evidence indicating that the Student did not receive services as outlined in the IEP in the LRE developed by the IEP Team during the period relevant to this Complaint.

Decision

Whether the District denied the Student a Free Appropriate Public Education (FAPE) by failing to ensure that the Student is educated consistent with the Least Restrictive Environment (LRE) requirements in violation of 34 C.F.R. §§300.114 through 300.117.

The OPI finds no violation. The Student received services as outlined in his IEP consistent with the requirements of LRE.

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.

Patrick Cates

Patrick Cates
OPI Safety and Student Supports, Senior Manager

- c: Mandi Gibbs, Dispute Resolution/EAP Director (via SMFTS only)
John Gorton, School Improvement/Compliance Unit Manger (via SMFTS only)
[REDACTED] District Attorney (via SMFTS only)
[REDACTED] District Special Education Director (Via SMFTS only)