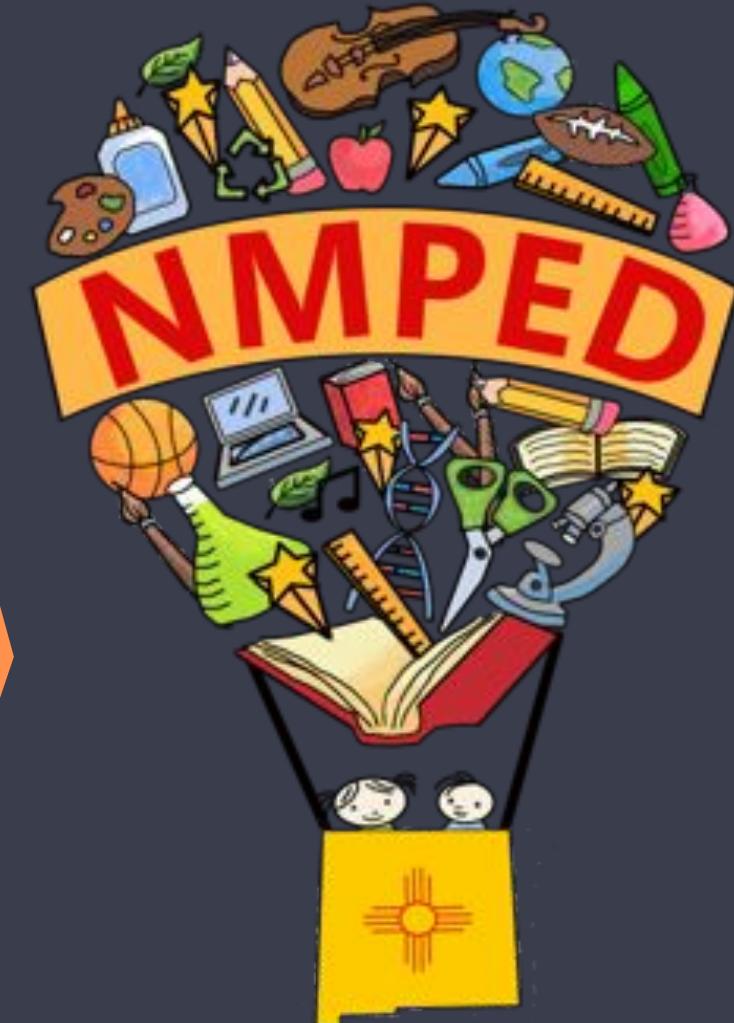


# So You Have a Corrective Action Plan (CAP). Now What?

Randall Rapanut, PED OSE Manager of  
Education Programs

Dr. Elizabeth Cassel, PED OSE Education  
Administrator CAP Monitor

*Investing for tomorrow, delivering today.*



# Don't panic!!



# Corrective Action Plan (CAP) Purpose

## **Not Punitive but an Opportunity!**

- Identifies an area(s) that could use support/improvement
- Presents an opportunity for collaborating with PED OSE to strengthen an LEA's systems
- Makes the student whole in their special education needs



# Two Different PED OSE CAPs

**Did you know that PED OSE has two different types of CAPs?**

- Onsite/Desk Top monitoring CAPs
- State complaint-based CAPs



# What is a State Complaint?

## Definition

**Formal dispute resolution process used in filing and processing complaints alleging the failure of the department or public agency to comply with state or federal laws or regulations governing programs for children with disabilities under the IDEA**

### **6.31.2.13(H)(2)(a) NMAC**

# Who Can File a State Complaint?

**Complaints may be filed by these different types of complainants:**

- Parent/guardian
- A 3<sup>rd</sup> party (advocate, attorney, etc.)
- LEA staff
- Student (yes, that happened)
- Anyone interested in educational welfare of the student

# Other Avenues for Complaint Resolution

## What Can Complainants Do Besides Filing a State Complaint?

- Try to work out complaint with the school first
- Contact our PED OSE Parent and Community Liaison, Dr. Dawn Delfin ([Dawn.Delfin@ped.nm.gov](mailto:Dawn.Delfin@ped.nm.gov) or call 505-470-0583)
- Request a PED mediated meeting with school
- If warranted, request a PED facilitated IEP meeting with the school
- Request a Due Process Hearing (not available to 3<sup>rd</sup> party complainants)

# Now What About Types of State Complaints?

Complaints may be filed with respect to a specific child or about systemic noncompliance in the local educational agency (LEA).



# What Are Some Elements of State Complaints?

- Complaints must allege that violations did not occur more than one calendar year before the complaint was filed.
- Complaints must be written (not just phoned in).
- Complaints must be submitted to PED OSE and the LEA for processing.
- Complaints must be signed by the complainant or complainant's representative.
- Complaints must include a statement that the LEA/department violated a requirement of federal law or regulation.
- Complaints must include a statement of the facts.

# What Are Some Elements of State Complaints (continued)?

- Complaints must include a proposed resolution to the dispute.
- Complaints must include the name of the school the child is attending.
- Complaints must report the name and address of the residence of the child; or in the case of a homeless child or youth, contact information for the child and the name of the district that they attend.
- *Note: Any complaint received that does not contain all needed elements will be declined. The Office of Special Education (OSE) will send an explanation and further guidance to the complainant.*



# What Are Some Common Causes of State Complaints?

- Written response to requests for evaluation (remember the 15-school-day rule!)
- Implementation for the IEP
- Inadequacies in the IEP
- Lack of parental participation in the IEP process
- Disciplinary removals
- Least restrictive environment (LRE)

# OK, So What Does the PED OSE CAP Monitor Do With the CAP?

- **Introduction email to all parties involved in Complaint Resolution Report (CRR) that contains a CAP**
- **Attends a CAP review meeting with LEA staff members**
- **Clarifies LEA questions about the CAP**
- **Tracks documents that satisfactorily address CAP steps**
- **Checks on CAP step progress**
- **Responds to complainant questions/requests**
- **Sends CAP closing letter to all parties involved in the CRR**

# How Does the Complaint Process Work?

- **Complaint is received, stamped in with date, and reviewed for completeness**
- **Complaint then forwarded to PED OSE Legal Council for complaint veracity**
- **If complaint determined possible violations exist, then assigned to investigator to gather case facts according to complaint issues**
- **PED OSE sends Acknowledgement Letter to all parties involved in complaint**

# What's in the Acknowledgement Letter?

- **Issues to be investigated**
- **Identifies the complaint investigator**
- **Provides timeline for investigation**
- **Lists documentation and information to be submitted by complainant and LEA**



# More on the Complaint Process

- Investigation starts
- LEA and parents submit documentation and information from Acknowledgement Letter. *Note that there is a due date to submit!*
- Complaint Resolution Report (CRR) is due within 60 days of complaint's date stamp, unless there is an exception
- PED OSE Alternative Dispute Resolution (ADR) Coordinator initiates ADR options, if requested by complainant
- CRR is issued within the 60-day timeline
- Includes any violations of the LEA and contains a Corrective Action Plan (CAP)

# Even More on the Complaint Process!

- CAP is monitored for correction of the violations – *this is where I come in, so contact me if you have any questions!*
- CAP must be corrected within one (1) year of the CRR unless there are exceptions
- Non-Compliance may affect Indicator 15 for the LEA in their Final Determination

# Possible Outcomes of a CRR

- Investigation of complaint declined - letter is sent to all involved parties.
- Successful ADR - Complaint is withdrawn. Yea!!!!
- No violations found - CRR is issued and case closed.
- If violations found, CRR and CAP issued.
- CAP may consist of LEA policy review, specific actions for identified student(s), change in practice, compensatory services for student(s), tuition/transportation reimbursement, and/or staff training.

# New Mexico Must...

- **Conduct timely investigations**
- **Document compliance for every CAP and CAP step**
- **Treat every CAP as relevant to general supervision and monitoring**
- **Report all state-level complaint timelines to Office of Special Education Programs (OSEP)**



# State Complaint Closing Points

- State complaints may lead to CAPs
- State complaints are bound by federally-mandated timelines
- CAPs arising from complaints must be monitored
- Identified noncompliance must be corrected within one year
- Lastly, documentation is of paramount importance! Accurate and detailed record keeping is in everyone's best interest!



# Questions?



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# THANK YOU

