



STATE OF NEW MEXICO
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New Mexico Public Education Department
 Special Education Complaint Form
(Use of this form is optional)

Date: September 29, 2020

Please complete all information and mail to:
 New Mexico State Special Education Director
 New Mexico Public Education Department
 Special Education Division
 Santa Fe, NM 87501

I. Public Agency or School District serving the child: Albuquerque Public Schools

II. Complainant and Student Information:

a. Complainant(s) Name(s): [REDACTED]

b. Address (or available contact information): [REDACTED]

[REDACTED] NM [REDACTED]

IV. Details Concerning Complaint:

- a. Complainant, please describe how the school district or charter school has violated a requirement of Part B of the Individuals with Disabilities Education Act and the facts relating to the complaint: (Who? What? Where? Why?) *Attach any documents that support your position.*

see attached

- b. Does the complaint allege violations that occurred in the last year?

Yes No If yes, please provide specific dates:

@8/4/2020 through present and continuing

- c. Describe a proposed resolution of the problem to the extent known:

NMPED should require APS to 1) pay all parents of students with disabilities enrolled in eCademy K-8 Magnet School for all hours they have been required to act as "Learning coaches"; 2) require APS to fully staff special education for provision of FAPE in the eCademy K-8 Magnet Schools without reliance on parents across the District; 3) require APS to provide PWN on all IEPs going forward of its intention to rely on parents to provide special education services so that Parents are fully aware of APS's intention to deny FAPE; 4) provide [REDACTED] with compensatory education.

9/29/2020 IDEA state complaint v. Albuquerque Public Schools

_____, with a current eligibility of “Developmental Delay,” is a 4th grade student in the APS eCademy K-8 Magnet School, which is a school in the Albuquerque Public Schools.

His IEP, dated 8/17/2020, is attached at **Exhibit 1**. It provides for 501.67 minutes per week of special education. According to the LRE page (p. 12), “he requires extensive support across school settings to make meaningful progress.”

His IEP also provides for speech language therapy, occupational therapy, and social work.

eCademy, K-8, was opened by APS for the 2020-21 school year in order to provide remote learning for any student whose family selected an all online school for reasons including not wishing student to return to a campus based on COVID/public health concerns. APS describes eCademy as “full-time online school for all grades.” See APS Instructional & Operational Reentry Plan SY20-21 Remote Learning Supplemental Update at p.18, attached as **Exh. 2**. APS Reentry plan supplemental Update states “[E]ach family with elementary and middle school student in eCademy K-8 will have clearly delineated roles and responsibilities to ensure that students have adequate at-home support.” **Exh. 2**.

eCademy uses “Edgenuity,” a commercial online curriculum, as its online learning platform. See **Exhibit 3**. Edgenuity lacks curriculum for specialized instruction and relies instead on substitution of “accommodations” or UDL principles, called, “scaffolds and supports.” See **Exh. 4**

eCademy requires that parents serve as “Learning Coaches” during the day. For a student in 4th grade, the *required commitment from a parent* (or other adult over the age of 18 furnished by the parent) is **3-5 hours daily** and 30-35 hours per week. See **Exhibit 3** (various documents about Edgenuity and the “Learning Coach” published by APS on the eCademy website) and **Exhibit 5** (email to Parents which includes directive that, “Children should not be left to work on Edgenuity on their own *without direct and continuous support from an adult Learning Coach.*”)

_____ was enrolled in eCademy @ August 4, 2020. August 5, 2020 letters from eCademy to Parents are attached as **Exhibit 6**. As shown by **Exhibit 6**, “formal class/learning structure” was scheduled to begin on September 8, 2020.

_____ had no special education teacher until September 28, 2020.

_____ has not had speech language therapy or social work at any time this school year, although a social worker reached out on September 28 to indicate she will be working with students on Wednesdays in the future.

Issue 1: By definition, FAPE is “free” and without cost to the family. 20 U.S.C. §1401(9)(A) (“special education and related services that --- have been provided at public expense, under public supervision and direction, and without charge.”).

Requiring parents of student with disabilities to work 3-5 hours per day, 5 days a week, or more, is not “free” special education. Moreover, Parents have three school aged children and they are employed and *cannot* provide _____ with the hours of support required by APS’s online school.

Issue 2: _____’s IEP provides for *specialized instruction in the areas of* English, Math, Life/Work skills, social skills. **Exh. 1 at 9**. Edgenuity does not provide specialized curriculum or instruction.

Use of Edgenuity, which is delivered with the expectation that *parents* are supporting the Student in both synchronous and asynchronous learning, is inadequate in meeting _____’s needs for specialized instruction which is supported by research. _____ is not receiving specialized instruction to meet his unique individual needs.

Issue 3: APS fails to provide required PWN on its intent to rely on Parents to provide _____’s education. PWN in the August 2020 IEP (**Exh. 1**) is evasive in not stating outright that education depends on Parents providing their labor 3-5 hours daily, 5 days per week. The PWN states, in part, for the reason _____ will attend eCademy, “Parents understand the parent learning coach role as addressed in the student handbook.”

Under IDEA, PWN is required anytime the LEA proposes change to its provision of FAPE. 20 U.S.C. §1415(b)(3). APS did not provide adequate PWN to parents and instead disguised denial of FAPE by inadequate PWN.

Issue 4: APS is not providing _____ with related services described by his IEP with exception of Occupational Therapy. He has not received speech language therapy or social work services.

APS is required to *provide* necessary related services as part of delivery of special education and FAPE. 20 U.S.C. §1414(d)(1)(A)(i)(IV).

Issue 5: ECademy as “advertised” by APS to the public was a classic bait and switch. Members of the public (and the APS BOE) were not told that enrollment would require that parents be “learning coaches” required to put in 3-5 hours of work daily (for each child) without compensation.

As to students with disabilities, eCademy creates denial of FAPE for *all students enrolled* in the eCademy K-8 Magnet School since all parents of students with disabilities are being required to be “Learning Coaches” in order for the student to access eCademy’s chosen curriculum, Edgenuity. **Parents request that NMPED address the issue for all students across the District.** Learning coaches required by Edgenuity need to be provided by APS, at district expense.