Native American Disability Law Center obtains important services for students with disabilities attending Nizhoni Elementary School

A concerned mother of a student with a disability came to the Native American Disability Law Center (Law Center) in February 2017 after attending an Individualized Education Plan (IEP) Meeting for her child at Nizhoni Elementary School (Nizhoni). At that IEP meeting, the mother learned that her child was not receiving related services due to her child under the IEP. Specifically, the child was not receiving any speech language or audiology support because Nizhoni had neither a speech language pathologist nor an audiologist as a part of its faculty.

On May 3, 2017, the Law Center filed a systemic complaint on behalf of our client and all other similarly situation students at Nizhoni with the New Mexico Public Education Department’s (PED) Special Education Bureau (SEB). The complaint’s investigation produced a report on June 30, 2017 that called for corrective action, both for the child specifically and school-wide for all other similarly situated students.

Based on its review of the Nizhoni’s performance in discharging its duties under the IEP’s of seven other randomly-chosen special education students from kindergarten up to 12th grade, PED found that the school was violating the federal special education law in a systemic way. The complaint investigator noted that, regarding the seven randomly-chosen students, he was “unable to find an instance of these students receiving special education and related services
for the duration and frequency specified in their IEPs.” On the systemic violations, PED is also requiring that Nizhoni take several corrective actions.

First, Nizhoni must “participate in a review of all IEPs in effect for students” who may be owed compensatory audiology service because of its failure to deliver those services in the 2016-2017 school year. In this way, all students who had the same experience as the child will receive compensatory education to remedy Nizhoni’s failure.

Second, because of the systemic violations, Nizhoni is now required to “adopt and implement a policy to notify the parents of a child with a disability of any changes in staff providing special education and related services that occur during the school year.” This policy change was suggested by the school itself. In addition, Nizhoni must inform parents about the status of the hiring process and to inform parents that a student may be owed compensatory education because of the change in faculty.

If your child attends Nizhoni, and is a student with a disability, you should contact Nizhoni immediately at (505) 368-4565 and inquire about your student’s eligibility to receive compensatory education services that he or she may be entitled to based on the PED’s decision. If you have other questions, or would like more information, contact the Law Center at (505) 566-5880.