

COMPLAINT INVESTIGATION REPORT

Complaint Number: 20.21.08
Complaint Investigator: [Redacted]
Date Complaint Filed: December 11, 2020
Date of Report: February 5, 2021

Issues Investigated

1. Did the District develop, review, revise, and implement the Students' IEPs (for Students A, B, and C)? [92 NAC 51-007.01]
2. Did the District provide special education and related services to the Students in accordance with the IEPs (for Students A, B, and C)? [92 NAC 51-007.02]
3. Did the District ensure that one or both of the Parents were present and afforded the opportunity to participate in IEP development for Student A? [92 NAC 51- 007.06]

Documents Reviewed by Investigator

From the Complainant

- Letter of Complaint dated December 10, 2020; received by NDE December 11, 2020
- Email correspondence with Complainant
- Interview with advocate for Complainant January 20, 2021

From the School District

- Letter of Response dated January 5, 2021; received by NDE January 5, 2021
- IEPs for the Students and a random sample of other students who are classified Deaf/Hard of Hearing in the District
- Service delivery logs for the Students
- Progress reports for the Students and a random sample of other students who are classified Deaf/Hard of Hearing in the District
- All Prior Written Notice letters outlining requests, and the District's proposals or refusals Students A, B, and C and for a random sample of other Deaf/Hard of Hearing students
- Contact logs outlining correspondence between the District and the Parents
- Email correspondence between the Parent and the District
- Teacher Interview dated January 12, 2021
- Interview with speech language pathologist dated January 12, 2021

Introduction

The complaint was filed on behalf of 3 siblings who are classified as Deaf/Hard of Hearing within the District. The District provided options for students to participate in either in-person or remote instruction via Zoom during the fall of 2020. The Parent chose remote-learning for all 3 students. The complaint is focused on the services that have been delivered during the fall of 2020. The complaint also makes mention of a systemic issue of oppression of deaf people within the District.

Issues # 1 and 2

Did the District develop, review, revise, and implement the Students' IEPs, [92 NAC 51-007.01] and provide special education and related services to the Students in accordance with their IEPs? [92 NAC 51-007.02]

92 NAC 51-007.01 states:

007.01 An IEP shall be developed, reviewed, revised, and implemented for each child who receives special education and related services.

92 NAC 51-007.02 states:

007.02 School districts or approved cooperatives must provide special education and related services to a child with a disability in accordance with the child's IEP.

Allegations

The services outlined in the Students' IEPs have not been provided or have not been provided appropriately.

Regarding Student A

- While attending at-home learning via Zoom during the fall of 2020, the Student's sign language interpreter has not provided services appropriately.
- The Student has not consistently been provided the speech services identified on the IEP as the Student was not included in group meetings.
- The District has not provided opportunities for direct communication with peers and staff, though this is noted as an area of need in the Student's IEP.

Regarding Student B and C

- Sign language interpreting services have not been appropriate.
- Behavior problems are not being dealt with appropriately and the Parents have been told that they cannot be present on Zoom meetings, making it more difficult for the Students to sustain attention.

Allegations regarding the class of Deaf/Hard of Hearing students in the District

- The Parents allege that “there is a systemic issue of oppression of deaf people” within the District.

Parent Position

The Parent has expressed frustration with the way that interpreter services have been provided while the Students have been participating in their Zoom instruction. Specifically, the Parent has felt that interpreters for Students A and B have not provided the Students adequate time to take notes, have not clarified when the Student asked for clarification, or have not voiced questions, and that one interpreter has been eating while interpreting. The Parent has made requests that the assigned interpreter be changed and the District has refused. In addition, the Parent has had difficulty keeping Students B and C engaged in learning activities without sitting with them. (Letter of Complaint dated December 10, 2020)

District Response

IEP meetings were held and IEPs developed on August 13, 2020 for Student A and August 10, 2020 for Students B and C. The Parent indicated that the Students would participate in school remotely. The Parent participated by phone in the development of all IEPs that outlined service delivery while the Students were learning remotely. The District developed a schedule, assigning the District’s most qualified and experienced interpreters to the Students. (Letter of Response dated January 5, 2021)

Additionally, the District developed a communication plan, directing the Parent to communicate directly only with administrators because the Parent’s communication was frequently disrespectful, threatening, and laced with profanity, and the Parent’s participation in lessons with the Students resulted in frequent disruptions to the learning environment. (Letter of Response dated January 5, 2021)

Investigative Findings

Facts regarding Student A

- Student A is Deaf/Hard of Hearing and uses American Sign Language as a primary mode of communication (MDT dated May 15, 2018).
 - The Student’s IEP provides full time interpreting services (360 minutes, 5 days per week). (IEP dated August 13, 2020)
 - The Student has been provided all interpreting services listed on the IEP. (Teacher Interview dated January 12, 2021)

- Student A's IEP indicates that the Student receives Speech and Language Services in an Individual and Group setting twice per month for 20 minutes.
 - These services have been scheduled individually during the 2020-2021 school year at a time requested by the Parent. (Interview with speech language pathologist dated January 12, 2021)
 - Service logs for Student A reflect consistent delivery of individual services while school has been in session consistent with the Student's IEP. (Speech service log August 26, 2020-January 8, 2021)
 - The Speech-Language Pathologist is not aware of a group that the Student was not included in and indicated that the "Individual and Group" setting was an error made in the development of the IEP as the intent was to provide these services individually. (Interview with speech language pathologist dated January 12, 2021)
- The Student's IEP states that "Opportunities for direct communication with peers and professionals in the child's language and communication mode" was deemed necessary. (Teacher interview dated January 12, 2021)
 - During the 2019-2020 school year while attending in-person prior to the 2020 school closures in March due to the COVID-19 pandemic, the Student participated in a weekly "lunch bunch" with other students who sign. [The Student] also participated in "Signing Stars," presentations provided by community members in sign language.
 - Since the Student has attended virtual instruction during the fall of 2020, the Student has had very limited access to other peers who sign.
 - The Student has had opportunities to sign with family members and the sign language interpreter.
 - There are 2 other students in the school who sign, one of whom uses sign as a primary mode of communication, though the Student does not get along with these peers.
 - At the IEP meeting held August 13, 2020, recognizing that opportunities for direct communication would be difficult to achieve while the Student was learning remotely, the IEP team suggested outside activities that the Student and Parent could utilize in order to access other children who sign so that the Student would have opportunities to communicate directly with peers.
 - At the IEP meeting held November 18, 2020, the Parent shared concerns about the Student not having full access to peers and the opportunity to develop age-appropriate friendships when the

Student has to use an interpreter to communicate. (Interview with parent advocate, January 20, 2021)

- As a result of the above, at the November 18, 2020 IEP meeting, the Parent requested a change of placement to an out-of-state school for the deaf where the Student would be able to communicate directly with peers, and therefore, make friends. (Notice of District Decision Regarding Requests dated December 3, 2020)
- On December 3, 2020, the District produced a Prior Written Notice of their refusal to place the Student at an out-of-state school for the deaf.
 - The IEP team noted that the educational services and sign language interpreter currently available at the Student's school are "allowing [the Student] to access instruction and communicate with others."
 - The Prior Written Notice considers the current placement, which was accepted because the supports "are currently meeting [the Student's] educational needs and constitute [the Student's] least restrictive environment." The Team also considered placement at an out-of-state school for the deaf as well as a different middle school within the District and rejected both because the Student is showing academic growth in the current placement.
 - The Prior Written Notice indicated that the decision was made based on the Student's IEP progress report data, parent input, and staff input.

Facts regarding Students B

- On October 23, 2020, the Parent sent an email to District staff outlining their concerns with one of the Student B's current interpreters.
- On October 27, 2020, the District provided prior written notice of their refusal to change interpreters for Student B and indicated that the Student has not requested additional time or asked for clarification, but that the Parent has done so, causing interruption to class instruction.
- The prior written notice (dated October 27, 2020) states, "[The District] will observe [Student B's] afternoon interpreter and provide feedback specific to the parent concerns, if such feedback were warranted or appropriate."

Facts Regarding Student C

- In the days preceding October 7, 2020, the Parent communicated with District Staff requesting that Student C's interpreter be changed. (Notice of District Decision Regarding Requests dated October 7, 2020)

- Prior Written Notice was developed by the District on October 7, 2020 outlining a communication plan that would be implemented by the District and included the fact that staff would not engage with the Parent during instructional time in an effort to protect the learning environment.

Facts Regarding both Students B and C

- Since they have been participating in remote instruction, both Student B and C have exhibited frequent avoidant behaviors (closing eyes, leaving the room, turning off the camera), or disruptive behaviors (wrestling, pulling pants down or shirt up, bringing things to show the camera). (Teacher interview, dated January 12, 2021)
- Behavior charts were implemented to provide incentive for engagement. Additionally, the Students' case manager meets with both Students separately every morning to review behavioral expectations. (Teacher interview, dated January 12, 2021)
- The Students have been moved to the "waiting room" available through Zoom when they have been disruptive and in some cases, when the Parent has interrupted classroom instruction. (Teacher interview, dated January 12, 2021)

Additional Facts regarding Students A, B, and C

- The Parent has engaged in a pattern of threatening and disrespectful emails that involve frequent use of profane language. (Emails exchanged October 28, 2020- December 4, 2020)
- The District has provided the Parent with 4 letters from the Director of Security addressing problems with loud and angry outbursts toward staff, yelling profanity at staff members, violating the traffic plan and endangering other drivers, and interrupting Zoom instruction. These letters have outlined the steps the District would take should these incidents continue, and ultimately outlined the limited individuals that the Parent was to direct all communication with. (Letters dated March 3, 2019; December 7, 2019; September 15, 2020; and October 21, 2020)

Summary and Conclusions

Data indicate that Students A, B and C have received all services outlined in their IEPs, including both speech and sign language interpreting, and that the schedules for service delivery were developed with input from the Parent. Student A's IEP team discussed possible opportunities for direct communication as the team recognized that remote learning made it more difficult for direct communication with other students to occur.

When the Parent raised concerns regarding the interpreter services, the District agreed to observe the interpreter in question to provide feedback and improve practice, although the Parent's allegations about the interpreters were not observed by school staff.

Finally, the Parent's history of aggressive, profane, and threatening communication with school staff required the District to develop a communication plan that allows the Parent to communicate directly with administrators but protects the teachers from communication by the Parent that is disruptive to the learning environment.

Facts regarding the class of students who are Deaf/Hard of Hearing

- A random sample of 7 students classified as Deaf/Hard of Hearing in the District were identified and files were reviewed. All 7 of those students show consistent progress on IEP goals.
- Three of the parents of students mentioned above were interviewed by phone. No concerns with regard to IEP development, implementation, or their participation in the process were raised. A few comments from those interviews are below:
 - “[The District has] done an amazing job with my [student]... [the Student] has totally excelled. [The Student] couldn't read and now [the Student] is reading above grade level.”
 - “All our issues have been addressed and taken care of.”
 - “We feel [the District] has done a fantastic job.”

Summary and Conclusion

For the random sample of students who are deaf or hard of hearing within the District, all appear to be accessing the educational environment and making progress on their IEP goals. Other parents do not appear to have similar concerns.

Based on the summary and conclusions above, the District implemented the requirements of 92 NAC 51-007.01 and 007.02 and **no corrective action** is required.

Issue # 3

Did the District ensure that one or both of the Parents were present and afforded the opportunity to participate in the IEP development for Student A? [92 NAC 51-007.06A]

92 NAC 51-007.06 states:

007.06A The school district or approved cooperative shall take steps to ensure that one or both of the parents of the child with a disability

are present at the IEP conference or afforded the opportunity to participate...

Allegations

Student A is making inadequate progress and the Parent has not been afforded full participation in the IEP meetings because the Parent has not been provided progress data the District is using to make decisions. The Parent believes that the Student's placement was pre-determined by the school prior to the IEP meeting and did not consider the Parent's input.

Parent Position

The Parent believes that Student A is not making adequate progress based on the Student's grades, previous grade retention, and overall because the Student is not performing at grade level. (Letter of Complaint dated December 10, 2020)

District Response

Student A has consistently shown progress on the goals outlined in the IEP developed August 13, 2020. In addition, the current placement represents the Student's least restrictive environment where the Student has access to both Deaf/Hard of Hearing and general education peers, and where the Student is making educational progress. (Letter of Response dated January 5, 2021)

Investigative Findings

Facts regarding Student A

- IEP meetings were held on August 13, 2020 and November 18, 2020 to discuss Student A's IEP. One or both parents were present at both meetings. In addition, the Parents brought an advocate to the November 18, 2020 meeting.
- Student A's IEP (August 13, 2020) states that progress reports will be provided quarterly.
- The District has provided quarterly report cards and accompanying IEP progress reports to the Parents at the same time that report cards have been provided to non-disabled students within the district. (Progress Reports dated May 21, 2020 and October 16, 2020)
- No grades or report cards were provided to any student by the District during the fourth quarter of 2020 due to school closures. (Interview with special education director dated January 13, 2020)
- The Parent requested in the November 18, 2020 IEP meeting that the team consider Student A's placement at an out-of-state school for the deaf.
- Student A's IEP team rejected this proposal in a prior written notice dated December 3, 2020 because the school team believes that the center-

based program for students who are deaf and hard of hearing with the addition of sign language interpreting services are allowing Student A to access instruction and communicate with others, ultimately, making educational progress.

Summary and Conclusions

Documents verify that one or both parents were present for both IEP meetings that have been held for Student A during the 2020-21 school year. Although the Parent has been disappointed that certain classroom-based data were not used as a measure of IEP progress, data collected on the Student's IEP goals reveals that the Student has made progress on three of four goals outlined in the August IEP meeting.

92 NAC 51-007.07A4 states that the IEP must include "A description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided." The District has met this obligation.

The District has determined that the current placement constitutes Student A's least restrictive environment, and therefore, remains [the Student's] appropriate placement.

Based on the documentation provided reflecting attendance and participation in both IEP meetings held during the 2020-21 school year for Student A, the District implemented the requirements of 92 NAC 51-007.06 and no corrective action is required.

Having found that the district is implementing the requirements of 92 NAC 51 in the areas raised in the complaint, the complaint is closed as of the date of this letter.

