

COMPLAINT INVESTIGATION REPORT

Complaint Number: 21.22.32
Complaint Investigator [Redacted]
Date Complaint Filed: June 21, 2022
Date of Report: [Redacted]

Introduction

The Student who is the focus of this complaint was a senior in high school during the 2021-22 school year, who met graduation requirements and graduated in June of 2022. The Student was identified as a student with a traumatic brain injury in January of 2011 and has received special education services since that time. Issues investigated pertain to only those that occurred between June 21, 2021, through the date of the conclusion of this investigation. Information occurring prior to June 21, 2021, are for context purposes only.

Issues Investigated

1. Did the District provide special education and related services according to the Student's IEP? [92 NAC 51-007.02]
2. Did the District inform teachers of their specific responsibilities related to implementing the Student's IEP, including the specific accommodations, modifications, and supports that were to be provided in accordance with the IEP? [92 NAC 51-007.02D]
3. Did the District ensure that all personnel is appropriately and adequately prepared and trained, including that personnel have the content knowledge and skills to serve children with disabilities? [92 NAC 51-010.01]

Documents Reviewed by Investigator

From the Complainant

- Letter of Complaint dated June 17, 2022, received by NDE June 21, 2022
- Interview with Complainant August 3, 2022

From the School District

- Letter of Response dated and received by NDE July 20, 2022
- The Student's most recent MDT dated May 13, 2019
- IEPs dated November 3, 2020, and October 8, 2021
- Teacher Report for Students Receiving Special Education Services Modifications/Accommodations dated October 28, 2021
- The Student's class schedule for the 2021-22 school year

- Emails exchanged with general education teachers regarding the Student August 13, 2021- January 20, 2022
- Argumentative Research Paper Calendar (Spring 2022)
- Argumentative Research Paper Requirements
- Emails exchanged between the Parent and general education teacher regarding the argumentative research paper assignment, dated January 31, 2022
- Syllabus for training entitled "Understanding and Supporting Students with Executive Functioning Deficits," dated November 10, 2021
- Sign-in sheet for training entitled "Understanding and Supporting Students with Executive Functioning Deficits," dated November 10, 2021
- Assistive Technology Daily Log for the 2021-22 school year
- Logs kept by special education, English, and business teachers for the 2021-22 school year.
- Grades and attendance records for the Student during the 2021-22 school year
- Email correspondence with the District dated August 1, 2022
- Grades summary for English class, spring 2022
- The Student's Official Transcript

Issue # 1

Did the District provide special education and related services according to the Student's IEP? [92 NAC 51-007.02]

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/Parent Position

The Parent's allegations are related to 3 separate issues. First, they allege that the District failed to implement accommodations, specifically related to the provision of notes in the classroom. Second, in spite of communication at the IEP meeting, the Student was not provided adequate support to complete a senior English paper. Finally, the assistive technology instruction was not used in real-time academic assignments.

District Response

Teachers all worked with the IEP team to learn about the needs of the Student and communicated regularly with Parents to explain assignments and provide additional resources for the Student.

Investigative Findings

- Following are the goals on the Student's IEP, developed October 28, 2021:
 1. By the end of the IEP period, [the Student] will use one of the following strategies to increase self-determination as measured by teacher reports and student self-reports in 2 of 3 student interviews: take a break from the situation, try deep breathing and calming sequence, verbally share when [the Student] is able to return to the normal routine, access an adult to help work through [the Student's] frustrations, remove self from the situation to avoid getting more upset, assess the situation, identify [the Student's] role in the problem and make a plan if the problem should arise again, discuss the perspective of others.
 2. By the end of the IEP period, given teacher support and weekly grade checks, [the Student] will generate an accurate "To Do" list of long- and short-term assignments 8 of 9 weeks.
 3. By the next annual IEP review date, given modeling and demonstration, and a list of assistive technology (AT) features/tools, [the Student] will identify and demonstrate successful use of at least 3 features in [the Student's] AT tools per session for 5 sessions.
- Related to the provision of accommodations:
 - Following the Parent's question about the notes that had been provided for the Student in the Business class, the special education director met with the case manager, the Business teacher, and the English teacher. (e-mail correspondence dated January 20, 2022)
 - Both teachers had been providing copies of the PowerPoint presentation used during instruction, believing that they had met the requirement in the Student's IEP. (email correspondence dated January 20, 2022)
 - Both teachers agreed to develop separate "guided notes" for class to provide an additional support for the Student in notetaking. (email correspondence dated January 20, 2022)
- Related to the English paper:
 - The English teacher sent out "weekly updates" to parents for the English IV class, going over what would be done each day in class.

- The Parent sent an email on January 31, 2021 inquiring about the upcoming English paper. (email correspondence dated January 31, 2022)
- The English teacher replied that the Argumentative research paper would not be assigned until the 4th quarter, though provided all the materials to the Parent that would be published on Canvas when the paper was assigned. The resources included: Quick Guide to Citations & Documentation, Introducing, Paraphrasing, & Citing Evidence, and Works Cited Page Instructions and Example. (email correspondence dated January 31, 2022)
- The paper was assigned on March 21, 2022. (Email correspondence dated January 31, 2022)
- The special education teacher, who spent a class period with the Student each day to address IEP goals and support the completion of general education assignments, started talking with the Student about the research paper on March 21, 2022.
- The English teacher broke the paper into 6 separate steps and checked in with students on each step beginning March 24, 2022 (Topic Proposal, Thesis Statement, Research Notes, Outline, Rough Draft #1, Rough Draft #2). (Grades Summary for English Class)
- There were 14 days of school from the time the paper was assigned to the time it was due ([District] Academic Calendar 2021-22, Special Education Teacher Service Logs)
- The Student was absent for 5 days (March 29- April 6) leading up to the paper's due date of April 8, 2022 (Special Education Teacher Service Logs)
- On April 7, after having missed 5 consecutive days of school, the Student had written 2 pages of the assigned 8. (Special Education Teacher Service Logs)
- The Student ultimately earned an A (91%) on the paper and an A in the class. (Official Transcript)
- Related to assistive technology instruction:
The October 28, 2021 IEP reads as follows, "[The Student] benefits from assistive technology to support academic success. [The District] provides [the Student] with a text-to-speech literacy tool as a Chrome extension which allows text to be converted to audio to make reading more accessible. Within this tool, [the Student] also has access to text annotation features (e.g., highlighting text, definition feature, note taking, etc.)."

"[The Student] also has access to an app on [the Student's] [District] issued iPad that allows [the Student] to scan paper documents with the camera and then listen to the text, using the built-in text-to-speech feature."

"The IEP team agrees that [the Student] benefits from assistive technology to support academic success, especially in reading. Beginning August, 2021, [the Student] has been provided with and uses the Capti Voice Chrome extension which allows [the Student] to listen to a variety of documents using the text-to-speech feature."

"For more incidental reading purposes, [the District] also provides [the Student] with the Voice Dream Scanner app on [the Student's] District-issued iPad. Voice Dream Scanner allows [the Student] to scan paper documents with the camera and then listen to it be read using the built-in text-to-speech."

"Another tool for [the Student] is Read & Write (Text Help) which is currently provided as a Google Chrome extension. This tool supports [the Student's] reading and writing ability. Among the features that Read & Write includes are: text-to-speech, screenshot reader; talking and picture dictionary; word prediction; translator; highlights; vocab list maker; and voice notes."

- The October 28, 2021 IEP includes as Transition Service 1: "Sample assistive technology tools and work on a feature match to meet [the Student's] preferences and needs.
- The October 28, 2021 IEP commits 10 minutes per week of assistive technology services.
- The 2021-22 log includes 38 entries of attempted assistive technology service times. Of those sessions, the provider was absent 3 times and the Student was absent 10 times. When the Student was absent, the provider generally reached out to the Student by email with questions related to recent things that had been introduced or practiced. (Assistive Technology Log 2021-22 School Year)
- Of the sessions described above, there were several examples of sessions that the Student did not bring the District-issued Chromebook and/or iPad or one or both of these devices was not charged. (Assistive Technology Log 2021-22 School Year)

- Progress reports indicate that the assistive technology goal was met by the end of the year and a specific list of the specific features mastered was provided. (Progress Report dated May 14, 2022)
- The assistive technology provider sent the Student with a 3-ring binder with quick reference guides and directions for future use of each tool that had been introduced. (Progress Report dated May 14, 2022)

Summary and Conclusions

With regard to the notes provided to the Student as an accommodation in the IEP, the District clearly provided the notes being used in class. When the Parent requested something more, each teacher developed separate notes to meet the Student's needs.

In the case of the English paper, the teacher shared all the needed information with the Parents nearly 2 months before starting the project, providing ample time to begin the process of developing the paper. Once the project was assigned, the general education teacher provided excellent scaffolding by breaking the project into several steps, ensuring that the Student had regular feedback and support throughout the writing process. Additionally, the Student had support available in the daily special education class to complete this assignment. The Student's IEP does not include goals related to writing, and instead, only addresses the executive functioning skills needed to break tasks into steps and complete them, something that was supported in both general education and special education. The Student's 5-days absent from both classes certainly impacted the access to school-level support. Regardless, the Student earned an A on the paper.

And finally, when it comes to assistive technology, while it is clear that the Parent's desire was that the Student embrace assistive technology as a means to access material more efficiently, the IEP clearly states that the services provided would focus on "sampling" available assistive technology and allow the Student to determine what was most useful based on the Student's "preferences and needs." The goal was met in that the Student was provided consistent instruction and an overview of the types of assistive technology that may be helpful. The Student demonstrated understanding of how to use the tools even if they were not used regularly in the general education classroom. Further, tools were provided so that the Student can easily access the tools at a later date should they be needed.

Based on documents provided, the District implemented the requirements of 92 NAC 51-007.02 and **no corrective action is required.**

Issue #2

Did the District inform teachers of their specific responsibilities related to implementing the Student's IEP, including the specific accommodations, modifications, and supports that were to be provided in accordance with the IEP? [92 NAC 51-007.02D]

92 NAC 51-007.02D states:

007.02D *Each teacher and provider described in 92 NAC 51-007.02C must be informed of his or her specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.*

Allegations/Parent Position

The District did not share the needed accommodations with general education teachers, who did not consistently implement them in the Student's course load. Specifically, the Student's IEP lists "Teacher or peer provides notes or outline."

District Response

The District provided several examples of the ways in which general education teachers were informed of the Student's accommodations. Further these teachers were informed of the Student's assistive technology needs as well.

Investigative Findings

- During the second semester of the 2021-22 school year, the Student was enrolled in Intro to Business, English IV, and Strength Training, as general education courses to meet graduation requirements. (Attendance Summary By Term 2021-22)
- The Student's case manager sent an email to the above teachers on December 21, 2021, in advance of the start of the second semester. The email included a picture of the Student, a description of the disability, brief description of cognitive and academic abilities, and the Modifications and Accommodations from the IEP that these teachers are responsible for. Additionally, the Student's IEP Goals are outlined in this email. (email dated December 21, 2021)
- The case manager indicated that she used "read receipts" on these emails and met with each teacher individually. (Statement from special education case manager as part of District Response dated July 20, 2022)
- One of these meetings (with the English teacher) was documented on January 4, 2022. (Email correspondence dated January 4, 2022)

- The District's speech-language pathologist also served as the person providing specialized instruction related to assistive technology needs addressed in the IEP. This individual informed 2 general education teachers of the assistive technology tools that the Student was learning. (email dated August 13, 2021)

Summary and Conclusions

Based on evidence of thorough communication both in writing and face-to-face, the District implemented the requirements of 92 NAC 51-007.02D and **no corrective action is required.**

Issue # 3

Did the District ensure that all personnel are appropriately and adequately prepared and trained, including that personnel have the content knowledge and skills to serve children with disabilities? [92 NAC 51-010.01]

92 NAC 51-010.01 states:

010.10 *School districts and approved cooperatives shall ensure that all personnel necessary to carry out this Chapter are appropriately and adequately prepared and trained including that those personnel have the content knowledge and skills to serve children with disabilities, subject to the requirements of Section 2122 of the Elementary and Secondary Education Act of 1965.*

Allegations/Parent Position

The District told the Parents on several occasions that they had never considered reaching out to the Assistive Technology Partnership, a state resource for individuals in Nebraska, to consider assistive technology as an accommodation for the Student. The Parents believed that they had to advocate for the District to consider assistive technology tools and that these tools were introduced later than was ideal such that the Student did not see the value of using such tools.

District Response

The District has ensured that all staff working with the Student are properly credentialed in their respective areas. Further, the District provided training to staff responsible for teaching the Student assistive technology tools and their use; as well as support to general education teachers to ensure they understood the tools the Student was being taught.

Investigative Findings

- As a result of an IEP amendment developed May 5, 2021 the following were added as IEP accommodations (IEP amendment dated May 5, 2021):
 1. Ensure access to auditory text to speech is functional for [the Student] to access for tests and quizzes.
 2. Correct math accommodation to only indicate calculators.
 3. Add for all subjects: allow use of note taking support.
 4. Team developed new short term objectives: Supporting work in progress and supporting use of weekly planner.
 5. Add assistive technology service time 15 minutes, 10 times per year, frontloading the time for: 1 time per week for the 1st month of school.
- The Parent suggested that Assistive Technology Partnership could provide training on use of assistive technology for the Student and other students with similar needs. (IEP amendment dated May 5, 2021)
- The Assistive Technology Partnership provided training to District staff in July of 2021, using the Student as an example of ways to evaluate for assistive technology needs (Letter of Complaint, dated June 17, 2022)
- The District scheduled and held a training for 22 District employees on November 10, 2021 run by District staff, providing further professional development on the use of assistive technology for executive functioning deficits. (Professional Development sign-in sheet dated November 10, 2021)
- The District confirmed that all staff working with the Student during the 2021-22 school year are appropriately credentialed in their assigned areas. (Statement from the District dated August 1, 2022)

Summary and Conclusions

The District made clear efforts to ensure that the Student was provided specialized instruction by an individual who had current knowledge of assistive technology available and knew how to use the technology. Further, the District provided training to its employees specifically on the use of assistive technology in accommodating for executive functioning deficits similar to those observed in the Student. Further, all staff working with the Student hold the proper credentials required by the State of Nebraska to be considered qualified to teach in their respective content areas. Based on this information, the District implemented the requirements of 92 NAC 51-010.01 and **no corrective action is required.**

Notice to District

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.