



Redacted

Redacted, Superintendent;

Redacted

Redacted

Redacted

Redacted, Complainant

Redacted

Redacted

Dear Redacted:

As of October 11, 2022, this office was in receipt of a letter of complaint filed on behalf of Redacted, a student enrolled at Redacted, by Redacted, parent of Redacted. The complaint included the following allegations.

The parent alleges:

1. The School District has not conducted an evaluation since 2018 and denied the Parent's request for the Student to be found eligible for Autism Spectrum Disorder;
2. The School District has not provided finalized copies of the IEP or related documents to the Parent; and
3. The School District has not developed an appropriate IEP, including transition services, to meet the Student's needs.

Based on the allegations, the following issues were identified to be investigated in determining whether the Student has been provided FAPE:

1. Whether or not the School District should have conducted an evaluation at the Parent's request and found the Student eligible for Autism Spectrum Disorder [92 NAC 51-006.04B; 92 NAC 51-006.05];
2. Whether or not the School District provided finalized copies of the IEP and related reports to the Parent [92 NAC 51-007.09D; 92 NAC 51-006.03E4]; and
3. Whether or not the School District had in place an appropriate IEP, including transition services, to meet the Student's needs [92 NAC 51-007.07; 92 NAC 51-007.07A9].

Findings of Fact:

The Letter of Complaint dated October 10, 2022, information from an Individualized Education Plan meeting held on September 1, 2022, included the following information:

- The district did not complete a psycho-educational evaluation of the Student since March 2018
- A written request to evaluate was sent on August 18, 2022, and was denied.

The Letter of Complaint included concerns with the Present Levels of Academic Achievement and Functional Performance, transition planning and service, a discussion of graduation options, and including Autism Spectrum Disorder as an eligibility diagnosis for the Student.

In a Letter of Response dated November 1, 2022, the District stated the following:

1. The District did not complete a full, comprehensive evaluation of the Student when it was due in March 2021.
2. The Parent asked for further assessment to be completed but that did not occur.
3. At the IEP meeting on September 1, 2022, the IEP team agreed to change the primary eligibility of the Student to Autism.
4. The new MDT was drafted but not sent to the Parent.
5. On October 19, 2022, the Parent received the MDT Addendum which listed Autism as the Student's primary disability.
6. At the IEP meeting on September 1, 2022, the IEP team agreed that the Student would not graduate by completing the required credits or by earning a GED.

7. The Parent expressed concerns for the Student's present function and needs as well as appropriate transition services and planning.

Conclusions:

The District made proposals related to each of the issues above. The Office of Special Education provided additional conditions that the District agreed to implement. As a result, the following is the resolution that the Office of Special Education and the District have reached:

1. The Parent received the MDT Addendum which now lists the Student's primary eligibility as Autism (evidence received).
2. The Director of Special Education successfully contacted the School Psychologist, who will obtain consent from the Parent to begin the administration of a full, comprehensive evaluation of the Student (evidence received).
3. The Director of Special Education will conduct training with staff to prevent other families from having similar experiences. The training will include a refresher on the requirement of Prior Written Notice when requests for evaluations are declined.
  - a. The District will provide Mary Lenser with a copy of the training material two weeks prior to providing training.
  - b. The District will provide Mary Lenser with a record of staff attendance including name and role within 10 days of the training.
4. The District will consider creating a template for families to fill out when requesting an evaluation.

Decision and Rationale:

As part of the State Complaint process, Rule 51 (92 NAC 51-007.11C2a) allows the district the opportunity to respond to the complaint including making a proposal to resolve the complaint. Upon review of the issues within the complaint, the Nebraska Department of Education has determined the District's resolutions put forth in this letter have resolved the complaint that was filed and this case is now considered closed. If upon the conclusion of the MDT the Parent is unsatisfied with the results, a new complaint may be filed.

If you have any questions concerning the information within this letter, please contact Kelly Wojcik at 531-207-9986. As the Director of Accountability, she will be able to respond to any questions you may have regarding the information contained in this report. Mary Lenser will be following up with the District to ensure the resolution activities have occurred as stated.

Sincerely,



Amy R. Rhone, Administrator/ State Director  
NDE Office of Special Education  
P.O. Box 94987  
Lincoln, NE 68509-4987  
531-207-9978  
Redacted

CC: Kelly Wojcik, Director of Accountability, NDE-Office of Special Education  
Redacted, Complaint Investigator, NDE Office of Special Education (Redacted)  
Mary Lenser, Complaint Investigator, NDE Office of Special Education  
Redacted, Director of Special Education – Redacted