

Final Resolution and Close-Out

REDACTED

REDACTED, Superintendent

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Dear REDACTED, Mr. and Mrs. REDACTED:

As of September 20, 2022, this office received a letter of complaint filed on behalf of REDACTED, a student at REDACTED by REDACTED, parents of REDACTED. The complaint included the following two allegations.

The parent alleged:

1. The district changed the student's speech services from direct, skills-building outside of the general education classroom to consultative speech services without following IDEA procedures, such as offering the family an IEP meeting to discuss the changes, an IEP amendment, or a Prior Written Notice.
2. The student's speech services were reduced through a change in the service delivery model without data to justify the change.

Based on the allegations, the Nebraska Department of Education Office of Special Education (NDE) planned to determine whether or not the students have been provided FAPE by investigating the following:

1. Was REDACTED allowed to change speech services provided through a variety of delivery models to consultive services because of a clause written in the description of the participation in the regular classroom or does it constitute a change in services? [92 NAC 51-007.01]
2. Did REDACTED follow IDEA procedures in changing the speech service delivery; that is, was the family advised of an IEP amendment and offered an IEP meeting to discuss the change? [92 NAC 51-007.02]

3. Did the REDACTED provide a description of the student's disability, current needs, and IEP goals in the PWN or IEP meeting consistent with moving the student to exclusively consultative speech services? [92 NAC 51-007.07A5]

Findings of Fact:

The Letter of Complaint dated September 20, 2022, detailed the Parent's steps when the district changed their child's direct speech therapy to a consultative service delivery model prior to the beginning of the school year.

Upon receiving written notification from the district prior to the 2022-2023 school year that their child would receive speech therapy through consultative services rather than direct service minutes the parents requested an emergency IEP meeting that was held on September 14, 2022.

A Prior Written Notice (PWN) dated September 14, 2022, was issued following the IEP meeting that speech-language services would be delivered as a consultative model and implemented between resource teachers and specialists based on information shared by the team and the student's latest progress reports. The PWN documented that the IEP team only considered online services and consultation based on his latest progress report. The PWN does not document that direct therapy was an option considered. The district reported they were meeting the Student's IEP speech therapy needs and their obligation for service delivery based on the clause that the Student's services could be provided from an array of services in the Student's existing IEP.

"A majority of Student's speech services will be provided through direct, skill-building outside the general education classroom, however, these minutes may also be met through support provided inside the classroom, classroom observation of carryover, and parent/teacher consultation."

The September 20, 2022, Letter of Complaint further detailed reasons the Parents felt the move from direct speech therapy to consultative services was not consistent with the student's current performance from his IEP and Progress Notes. Specifically, the IEP stated that the Student communicates using a variety of modes, preferring verbal speech, but increasing the Student's communication with gestures/signs and a voice output device.

- The December 14, 2021, IEP Present Levels reported that his direct speech therapy sessions focused on reviewing sounds and phonological patterns needed for increased intelligibility, and the Student's Percent Correct

Consonant score in a word sample is between 70-80% correct on single words. The Student continued to have difficulty with sentences and multisyllabic words. This need was addressed with a short-term objective. The Progress Report dated May 26, 2022, reported progress had been made, sufficient to meet the goal by the end of the IEP year.

- The December 14, 2021, IEP Present Levels also reported the Student's direct speech therapy sessions focused on improving receptive/expressive vocabulary skills identifying target words from text, and repeating multisyllabic words. These needs were addressed through a short-term objective in his IEP Annual Goal. The Student's Progress Report dated May 26, 2022, also reported progress had been made, sufficient to meet the goal by the end of his IEP year.

On October 3, 2022, the Director of Special Education with REDACTED offered a resolution to return to the 60 minutes of direct services to make up for the direct services missed during the 2022-2023 school year with a calendar of dates and times showing the districts offer of IEP direct service minutes and missed direct service minutes, a total of 420 minutes in total.

On October 15, 2022, NDE notified the district that the proposed resolution to Issue #1 was acceptable with amendments, however, resolutions to Issues #2 and #3 were not offered. The district was provided seven calendar days to offer a proposal for resolution.

NDE subsequently learned that the Director of Special Education was no longer employed by the district and communications with the superintendent were initiated.

On October 26, 2022, the Superintendent of REDACTED confirmed during a phone conversation with the Complaint Investigator the district's intent to fulfill the resolution to Issue #1 with the amendments proposed by NDE and verbally agreed to offer a resolution for the remaining two issues.

On October 26, 2022, the Superintendent offered a written resolution for the remaining two issues in an email to the state to conduct an IEP with the parents to write 60 minutes/week, 4 weeks/month of direct speech therapy service minutes delivered outside the general education classroom into the IEP and remove the statement that a variety service delivery models will be provided available.

Conclusions

The District made proposals related to each of the three issues above and began efforts to implement the resolutions offered. As a result, the following is the resolution that the Office of Special Education and the District have reached:

1. Resume 60 minutes of direct weekly service by a Speech Language Pathologist to the Student and provide NDE service logs showing the provision of the 60 minutes of direct weekly service by a Speech Language Pathologist.
2. Provide to NDE a calendar showing the timeline for the Speech Language Pathologist to provide the additional 150 minutes of direct service that needs to be made up as a result of lost service minutes at the start of the school year and provide NDE service logs of the provision of the additional 150 minutes of direct service.
3. Amend the IEP as follows, offering the parents an IEP meeting.
 - a. Reinstate the 60 direct service minutes weekly outside of the general education classroom.
 - b. Remove the two sentences on page 14 of the current IEP, "Speech therapy will be provided through a variety of service delivery models. A majority of *students'* speech services will be provided through direct, skill-building outside of the general education classroom, however, these minutes may also be met through support provided inside the classroom, classroom observation of carryover, and parent/teacher consultation."
4. Provide to NDE the IEP amendment, Prior Written Notice, staffing notes, revised IEP, or any associated documentation that shows parent agreement to the specific services proposed in the IEP amendment.

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 IEP Amendment meeting the Parents are unsatisfied with the results, a new complaint may be filed.

If you have any questions concerning the information within this letter, please contact Christopher Chambers at nde.speddr@nebraska.gov. As the Complaint

Specialist following up on the case, he will be able to respond to any questions you may have regarding the information contained in this report. Christopher Chambers will be following up with the District to ensure the resolution activities have occurred as stated.

Sincerely,



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