

COMPLAINT INVESTIGATION REPORT

Complaint Number: 22.23.14
Complaint Investigator: [Redacted]
Date Complaint Filed: December 7, 2022
Date of Report: [Redacted]

Issues Investigated

1. Whether or not the District was required to include annual IEP goals for reading comprehension and executive functioning in the Student's IEP [92 NAC § 51-007.07A2];
2. Whether or not the District complied with the requirements for the Student's IEP team to meet at least annually to develop an IEP, and determine whether the annual goals for the child are being achieved [92 NAC § 51-007.07A2, 92 NAC § 51-007.09C, and 92 NAC § 51-007.10]; and
3. Whether or not the District's errors or omissions resulted in a denial of FAPE. [92 NAC § 51-003.24].

Information Reviewed by Investigator

From the Parent

1. Letter of Complaint dated and received by the Nebraska Department of Education on December 7, 2022
2. Individual Education Programs (IEP) dated:
 - a. April 26, 2021
 - b. January 10, 2022
 - c. July 25, 2022
 - d. October 5, 2022
3. Progress Reports dated:
 - a. January 10, 2022
 - b. March 21, 2022
 - c. May 31, 2022
 - d. October 21, 2022
4. Multidisciplinary Evaluation Team (MDT) Report dated February 10, 2020
5. Complaint Investigation Report dated July 6, 2022
6. Email from NDE to Parent re: Complaint Investigation Report dated July 6, 2022, sent August 15, 2022
7. Interview with Parent and Attorney held January 10, 2023

From the District

1. Letter of Response dated and received on January 5, 2023

2. Emails between the Parent and District dated from December 7, 2021, through April 26, 2022
3. Student's Daily Checklist dated February 21, 2022, through May 13, 2022.
4. Individual Education Programs (IEP) dated
 - a. April 26, 2021
 - b. January 10, 2022
 - c. July 25, 2022
 - d. October 5, 2022
5. Draft Notice and Consent for Reevaluation dated December 19, 2022
6. Notices of Meeting dated:
 - a. July 18, 2022
 - b. September 27, 2022
 - c. December 21, 2021
7. Prior Written Notice re: Transportation dated December 17, 2021
8. Progress Reports with data attached dated:
 - a. March 21, 2022
 - b. May 31, 2022
 - c. October 21, 2022
9. Email from Complaint Investigator to District dated January 17, 2023
10. Interview with District personnel conducted January 13, 2023

Documentation Note

Both the Parent and the District provided documentation outside of the investigatory timeline. The documents were reviewed, but not included in the lists above.

Introduction

Previous to the filing of this Complaint, on July 6, 2022, the Nebraska Department of Education (NDE) issued investigative findings regarding a complaint filed by the Parent against the District. The Department's findings included the District's failure to implement the Student's IEP, and failure to monitor the Student's progress and provide reports of the same in accordance with the Student's IEP. NDE required the District to implement corrective action to remedy these failures. The District was required to amend the Student's IEP to develop a hygiene-related goal, and include baseline data and objectively measurable IEP goals.

On December 7, 2022, the Nebraska Department of Education (the Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the District. The Parent requested that the Department conduct a special education investigation under 92 NAC § 51-009.11C3. The Department confirmed receipt of this Complaint and forwarded the request to the District. Under state and

federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint. This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint. On December 21, 2022, the Department sent a Request for Response (RFR) to the District identifying the specific allegations in the Complaint to be investigated and establishing a Response due date of January 5, 2023.

The District submitted a Response on January 5, 2023, which disputed the allegations, provided an explanation, and submitted documents in support of the District's position. The information included in this report that is outside the Complaint period is provided for context only.

Findings of Fact

1. On January 13, 2020, the District conducted an evaluation "because it had been 3 years since the initial verification. The Student has had some additional medical diagnoses. The team wanted updated information about Student's cognitive, academic, speech/language, social/emotional, and fine motor skills." (MDT dated February 10, 2020)
2. At the MDT meeting on February 10, 2020, the team determined that the Student best met the requirements of a child with other health impairments. *"The following recommendations were offered for the consideration of the multidisciplinary team:*
 - a. *[Student] may benefit from visual representations of the writing process. [Student] struggles to express themself verbally, which may be related to [Student's] ability to express themself in writing. Since [Student] is more of a visual learner, it may help [Student] to see the writing process in a more visual way;*
 - b. *[Student] will need to have new vocabulary taught in an explicit way, such as using the Marzano model; and*
 - c. *[Student] may benefit from learning some strategies to help with [Student's] executive functioning skills. For example, [Student] may benefit from learning how to self-monitor [Student's] attention to instruction and work. Using timers to show [Student] how long it is taking [Student] to start tasks and to complete them may help Student with time management skills. It could also help [Student] learn to organize the tasks that [Student] has to complete and the times that Student has to complete them throughout the day. This may help [Student] manage time better and help them see what*

homework they will need to complete at home each evening instead of having it seem like a surprise or unknown to [Student] each day.” (MDT dated February 10, 2020)

3. On January 13, 2020, District staff administered the Wechsler Individual Achievement Test – Third Edition to the Student. The reading score report is as follows:
 - a. Word Reading score was 86, Rank 18, which was average;
 - b. Pseudo-word Decoding score was 84, Rank 14, which was below average;
 - c. Basic Reading score was 85, Rank 16, which was average;
 - d. Oral Reading Fluency score was 89, Rank 23, which was average;
 - e. Reading Comprehension score was 87, Rank 19, which was average; and
 - f. Total Reading score was 83, Rank 13, which was below average. (MDT dated February 10, 2020)

The Student's total reading score of 83 is in the Below Average range. It includes basic reading, reading fluency, and reading comprehension abilities. In basic reading, the student scored within the average range. The Student read several short passages to themselves and then answered open-ended questions about the passages to assess reading comprehension. On questions where the answer was located word-for-word in the passage, the Student's responses were 70% accurate. On questions that required the student to form an opinion, summarize, or make an inference, the Student was only 27% accurate. While most of the Student's reading scores were in the average range, they were in the low average range. The Student's overall reading ability is in the below-average range. (MDT dated February 10, 2020)

4. On February 10, 2020, the IEP Team met and conducted the annual review of the Student's IEP. This IEP was in effect from February 10, 2020, through February 9, 2021. Both parents attended the meeting. (Letter of Complaint dated December 7, 2022)
5. On April 26, 2021, the IEP Team met and conducted the annual review of the Student's IEP. This IEP was in effect from April 26, 2021, through April 25, 2022. Both parents attended the meeting.
6. The April 26, 2021, IEP stated: *“[Student's] strengths are helpful, friendly and caring, visual and spatial concepts, great attitude, tries hard, very nice and sweet, responsible, easy to converse with, very polite and personable, self-advocate with appointments and [Student's] own schedule. [Student] always has a smile on [their] face. [Student] has math facts memorized. [Student] is very helpful.”*

The Student's needs, according to the Parents, were as follows:

- a. *"Being able to process and verbally express [themselves];*
 - b. *Stay more focused;*
 - c. *Slow down when handwriting;*
 - d. *[Student] has been diagnosed with ADHD and anxiety;*
 - e. *[Student] is receiving counseling services at home as well as occupational therapy physical therapy, and speech;*
 - f. *[Student] has difficulty completing homework at night;*
 - g. *Anxiety at school consists of blurting out, following teachers around, and out of seat; and*
 - h. *[Student] struggles with boundary awareness."* (IEP dated April 26, 2022)
7. The IEP dated April 26, 2021, included the psychoeducational evaluation summary and conclusions:
- a. A cognitive test completed on January 13, 2020, indicated low average overall intelligence, with very low verbal comprehension skills;
 - b. An academic assessment completed on January 14, 2020, indicated mostly average skills with the exception of written expression;
 - c. Behavior rating scales completed indicated the Student displayed somatization, atypically, and attention problems more often than the Student's same-aged, same-sex peers;
 - d. The Student's functional communication skills also seemed to be less developed than same-age, same-sex peers;
 - e. The Parent and the teacher reports indicated the Student struggled to maintain attention and has difficulty starting tasks which leads to limited alertness creating difficulties with maintaining attention to the instruction and using work time efficiently; and
 - f. Behaviors appear to be impacting the Student's performance.

A speech and language evaluation was completed in February 2020. Four tests were administered to the Student. The Student's CELF-5 results for the Core Language Score for Word Classes, Formulated Sentences, Recalling Sentences, and Semantic Relationship was assessed at 80 (percentile rank of 9). This places the Student in the borderline/marginal/at-risk range of language functioning. The following assessments and scores were included:

- a score of 82 (percentile rank of 12) on the language index;
- a score of 89 (percentile rank of 23) on the expressive language index.;

- a score of 82, (percentile rank of 12) on the language content index; and
- a score of 85 (percentile rank of 16) on the language memory index.

The Goldman-Fristoe Test of Articulation was administered to the Student. The Student demonstrated 17 errors of the /r/ and of the /s/ sounds in sentences. The Student demonstrated a frontal lisp during conversational speech. These errors may make the Student's speech difficult for teachers and peers to understand. The Student's standard score was 40 (percentile of 0.1), age equivalent of 4.0–4.1. (MDT dated February 10, 2020)

8. On the April 26, 2021, IEP, the Present Level of Academic Performance and Functional Performance stated: *"One of the main focuses right now is [Student's] comprehension of the material being read. [Student] does much better when comprehension questions are specific (can be found directly in the text) vs. open-ended abstract thinking. During intervention in the classroom, [Student] is able to answer comprehension questions. Oftentimes when [Student] is incorrect, it's because [Student] was rushing on the [Student's] assignment. At home when reading [Accelerated Reader] AR, Parent will read a page, and then [Student] will read one page. As of April 2021, [Student's] current [Accelerated Reader] A.R. level was 3.0-5.0."*

The Speech and Language present level stated *"The Student's use of correct grammar when producing sentences has shown some improvement with cues. The Student still needs cues with recalling sentences without omitting and substituting words, and comprehending material read to the Student."* (IEP Dated April 26, 2021)

9. The April 26, 2021, IEP listed the communication annual goal as follows:

"By April 26, 2022, [Student] will produce the /s & /r speech sound in all positions of single words during a 5-minute conversational speech with no more than 3 errors, in 3 of 4 trials."

The short-term objectives state that the Student will produce the /s & /r correctly in:

- a. All positions of syllables with 90% accuracy;*
- b. All positions of single words with 90% accuracy;*
- c. All positions of single words in phrases with 90% accuracy;*
- d. All positions of single words in sentences with 90% accuracy;*
and
- e. All positions of single words in conversational speech with 90% accuracy."*

The April 26, 2021, IEP also indicated that the District will send home “a progress report every nine weeks.”

10. The April 26, 2021, IEP listed the fine motor skills annual goal as follows: “By April 26, 2022, [Student] will improve their fine motor and visual motor skills by meeting 2 out of 2 on the following objectives:
- a. [Student] will produce written work with 95% legibility based on letter formation, line placement, and spacing 2 out of 3 observations; and
 - b. [Student] will tolerate a fine motor task for at least 15 minutes before showing signs of fatigue (hand tremor or shaking hands) 2 out of 3 sessions.”

The April 26, 2021, IEP also indicated that the District will send home “a progress report quarterly with report cards.”

11. The April 26, 2021, IEP listed the social skills annual goal as follows: “By April 26, 2022, when given scenarios of social situations, [Student] will identify the emotion(s) involved and choose one self-regulating/coping strategy (movement break, deep breathing, quiet space break, deep pressure/heavy work activity, etc.) appropriate to the situation in $\frac{4}{5}$ trials. The short-term objectives are:
- a. [Student] will be able to increase their knowledge of emotion vocabulary by correctly identifying which emotion a person is feeling in different scenarios;
 - b. [Student] will be able to complete a Marzano vocabulary square for each new emotion;
 - c. after identifying a correct emotion, [Student] will be able to problem-solve and pick an
 - d. appropriate self-regulation/coping strategy; and
 - e. [Student] will advocate for [themselves] when [Student] needs a break. [Student] will be able to recognize how they are feeling and then select an appropriate strategy.”

The April 26, 2021, IEP also indicated that the District will send home “a progress report quarterly.”

12. The April 26, 2021, IEP stated the special education services provided were: “[Student] receives intervention services to work on [Student's] written expression and vocabulary skills as well as to address [Student's] anxiety and fatigue throughout the school day 5 days a week. [Student] will be provided with speech services 2x a week to work on articulation and expressive communication. [Student] will also receive occupational therapy services 16 times a year for 30-minute sessions to work on fine

motor skills and to help with [Student's] sensory needs. [Student] goes to the resource room for all work times, but times may vary."

Accommodations and modifications are as follows:

- a. "All tests will be read aloud in the resource room by staff. For reading tests that have more than 1 story, [Student] will read one test on [Student's] own, and on the other test will be read aloud by resource staff;
- b. Preferable seating in the front of the room to the side;
- c. In Saxon Grammar, [Student's] assignment is cut in half (only does evens or odds) due to needing reteaching and reviewing of Saxon Grammar material;
- d. We will use a check-in/check-out system for communication with Parents;
- e. Sensory breaks are scheduled throughout the day to help with self-regulation;
- f. Individual assigned homework will not be considered late until it is two days late, tests will not be given if the homework deadline has not passed;
- g. All communication between [Student's] family and the school will follow the Communication Protocol. The communication Log between the school and [Student's] family will be on a Google Doc Communication Log. The purpose of the Communication Log is for a daily check-in of how the student is doing, any homework issues, level of prompting needed, if on or off task, and the Student's mental health;
- h. The classroom teacher and SPED teacher will fill out the Communication Log. If the resource teacher is not available to enter information into the Communication Log at the end of the school day, the classroom teacher will enter the information. Parties will respond to follow-up emails within 24 hours. The Communication Log will be completed by 5:00 p.m. each school day;
- i. Accommodations to address [Student's] Anxiety/Fatigue are that the Student will use a fidget during the day. The Student can "swap out" a fidget tool for a different one throughout the day. The Student needs to leave the fidget tool at school at the end of the day on the Student's teacher's desk. If the student asks for headphones they will be provided so long as it doesn't impair the Student's hearing instruction/information from the teacher;
- j. [Student] can have break time to go somewhere quiet, use a blanket, go to the resource room to exchange a fidget tool, or use

a weighted blanket in the resource room. Other coping strategies [Student] might use during this time are breathing exercises, “floppy noodle”, and rolling of [Student’s] ankles;

- k. [Student] will take Accelerated Reader (AR) tests on Fridays. [Student] will read shorter books until [Student] meets the AR goal and then move to an audio chapter book;
 - l. [Student] will only complete half of the math assignments to help balance fatigue at school and at home;
 - m. [Student’s] recess on Friday will be used to complete any work that is unfinished from the week. If all work for the week is completed [Student] will attend recess;
 - n. Upon arrival at school, [Student] will be able to sit by the office in the morning until 7:40 a.m. This is to help [Student] decompress from the bus; and
 - o. Service duration and frequency for special instruction (resource) is 50 minutes a day, five days a week. Service duration and frequency for speech-language therapy is twenty minutes a day, two days a week. Service duration and frequency for occupational therapy services are 30 minutes a day for 16 days a year.”
13. The IEP dated April 26, 2021, stated: “Regression is a factor in [Student’s] vocabulary and reading skills. [Student] will receive 3 hours of reading and vocabulary services in the summer” for Extended School Year Services.
14. The District sent a Notice of Meeting to the Parent on December 21, 2021. The Notice of Meeting indicated that the purpose of the meeting was to develop, review, and /or revise the Student’s individualized education program (IEP), including:
- a. The Student’s academic achievement and functional performance;
 - b. Any special education and related services and supplementary aids and services that the Student may require;
 - c. Appropriate annual goals; and
 - d. The extent of the Student’s participation in the general curriculum and/or necessary modifications.

An IEP Team meeting was scheduled for January 10, 2022.

15. The January 10, 2022, IEP, in effect from January 10, 2022, through January 9, 2023, included hygiene and social skills goals. This IEP reflected revisions to the Student’s accommodations that considered the transition from elementary to middle school:

- a. *"Saxon Grammar, Student's assignment is cut in half (only does evens or odds) due to needing re-teaching [sic] and reviewing of Saxon Grammar material;*
 - b. *Homework-individual assigned homework will not be considered late until it is two days late;*
 - c. *The Student will take AR tests weekly. The Student will read shorter books until the Student meets AR goal and then move to an audio Chapter book;*
 - d. *The Student will only complete half of math assignments to help balance fatigue at school and home;*
 - e. *The Student's recess on Fridays will be used to complete any work that is unfinished from that week. If all work for the week is completed the Student will attend recess; and*
 - f. *Upon arrival at school, the Student will be able to sit by the office in the morning until 7:40 a.m. This is to help the Student decompress from the bus."*
16. On February 15, 2022, the Parent emailed the school: *"The last week has been very difficult for the Student. While helping with homework tonight [Student] mentioned about some rules going to be started:*
- a. *If a problem is not completed what is the consequence that is going to be implemented? Why would there?;*
 - b. *I saw page numbers next to the Social Studies questions. Was this mirrored like the math book?; and*
 - c. *My final question is should we hold an IEP meeting for any new changes being implemented?"*
17. According to the March 21, 2022, Progress Report, the Student made progress, but did not meet Goal #1: *"By the next annual IEP due date, [Student] will produce the /r/ speech sounds in all positions of single words during a 5-minute conversational speech with no more than 3 errors, in 3 of 4 trials,"* as measured by teacher observations, oral performance, and parent report. Sufficient progress to meet the goal by the end of the IEP year will not be met. Comments that detailed Student's progress were: *"[Student] has been working on expressive communication and articulation of the /s/ sounds and a few vocalic /r/ sounds. [Student] has some trouble with articulating the /r/ sounds correctly in conversational Speech. [Student] can produce the /s/ correctly. [Student] can produce the /r/ sounds after a model and given cues."*

According to the March 21, 2022, Progress Report, the Student made progress, but did not meet Goal #2: *"By the next annual IEP, [Student] will improve expressive language skills through direct instruction by the*

speech-language pathologist and resource teacher during structured activities with 80% accuracy on 3 of 4 trials," as measured by teacher observation and oral performance. [Student] will not make sufficient progress to meet the goal by the end of the IEP year. Comments that detailed the Student's progress were: "[Student's] use of correct grammar when producing sentences has shown some improvement, but still needs cues for correct accuracy. [Student] still needs cues with recalling sentences without omitting and substituting words and comprehending material read to [Student]. [Student's] comprehension continues to improve and [Student] is using skills that are taught in many subject areas. [Student] does well with listening comprehension. [Student] continues to work on sentence structure and using correct grammar in sentences. [Student's] sentences have really improved. [Student] has been using more detail and sentences have varied in length. [Student's] average for the 3rd quarter on vocabulary tests/quizzes is 91.8%."

According to the March 21, 2022, Progress Report, the Student made progress, but did not meet Goal #3: "By the next annual review date, [Student] will maintain cleanliness/hygiene with assistance for 90% of [Student's] school week," as measured by a daily checklist and as measured by teacher observation, written performance, oral performance, and parent report. Progress was made but the goal was not met. The progress is sufficient to meet the goal by the end of the IEP year. Comments that detailed progress were: "[Student] was provided with a toothbrush, toothpaste, and deodorant at school. [Student] is supposed to check in every day and mark on a chart whether [Student] completed the self-care at home or at school. [Student] comes in right away for check-in in the morning. [Student] fills out the checklist first thing. [Student] does this independently without reminders and does it privately. [Student] said that [Student] completed the hygiene at home. [Student] has only used the supplied items for one week. The teacher checks in with [Student] once a week to make sure [Student] is being honest on the check-in sheet."

According to the March 21, 2022, Progress Report, the Student made progress, but did not meet Goal #4: "By the next annual IEP, when given scenarios of social conflict, [Student] will demonstrate problem-solving social skills in story or picture format by identifying the problem and generating two solutions appropriate to the situation in 4/5 trials, as measured by data collection, according to teacher observations, written

performance, and oral performance. There has been sufficient progress to meet the goal by the end of the IEP year." Comments indicate that, ". . . the teacher continues to use the Marzano vocabulary method for learning emotional words with only a few words left to go over. [Student] has to define the word, come up with synonyms and antonyms, identify which zone, and then describe a situation when [Student] might feel that emotion. [Student] has done a much better job of independently coming up with sentences for each new emotion word. [Student] has been using their knowledge of emotional words to help with social scenarios. [Student] works on at least one social situation daily. [Student] independently reads the scenario and then writes out what they would do in that situation. Once finished, a staff member reads the scenario and then discusses with [Student] if the answer was appropriate or not. [Student] answered 14/24 scenarios appropriately. Most of the scenarios revolved around Friends. [Student] often responded to avoid conflict. [Student] continues to be a self-advocate when needing breaks."

18. The Student's Daily Checklists, from March 21, 2022, through May 13, 2022, were a week-at-a-glance picture schedule of hygiene tasks:
- a. Brush my teeth;
 - b. Brush my hair;
 - c. Use deodorant; and
 - d. Shower/bathe, as needed.

On Monday, Tuesday, and Friday, all of the above tasks were to be completed at home. On Wednesday and Thursday of each week brushing teeth was completed at school.

19. On March 28, 2022, the Parent emailed the Occupational Therapist: "I have been thinking about this goal over the course of the last couple of weeks. How I think this is an appropriate goal, I am wondering how [Student] was to be successful in meeting it. With that being said, I am also wondering what we are trying to achieve. If we are trying to achieve [Student] doing daily hygiene, I think [Student] needs more supervision but if we are trying to reach accountability, the goal is not going to be a success...Brushing [Student's] teeth before [Student] leaves is a hit-and-miss each day. If [Student] is expected to document that [themselves] in school each morning, my guess is [they] will be putting down that [Student's] teeth have been brushed. [Student] will do/say what [Student] knows people want to know so in [Student's] mind the task is complete."
20. On April 10, 2022, the Occupational Therapist responded to the Parent's March 28, 2022, email: "I agree with you that this goal is not a great goal for elementary school. It was really meant for next year and the transition

- to Jr. High and PE. So hopefully we are just preparing [Student] for that and it will be easier to monitor next year. I know you wanted a hygiene goal so I was trying to make it educationally related as much as possible.”
21. On April 25, 2022, the Occupational Therapist emailed the District staff on the Student's IEP Team: *“I am hoping you can help us send an email back to the Parent and [Student's] team. The goal was never intended.”*
 22. On April 25, 2022, the Student's Special Education Teacher emailed the Parent: *“[Student's] goal is as follows: By the next annual review date, [Student] will maintain cleanliness/hygiene with assistance for 90% of [Student's] school week as measured by a daily checklist. We use the checklist that [Student] completes every morning whether each step was completed at home or at school. If [Student] informs me that [Student] does it in the teacher's office first thing after check-in...from [Student's] checklist and emails I've received, [Student] has only needed to brush [their] teeth 7 times here at school this quarter. Any other time, we've assumed [Student's] done it at home. The teacher emailed at the end of last quarter asking about [Student's] check sheet and if [Student] is being honest. The Parent emailed that [they] didn't think [Student] was and since then has emailed me consistently letting me know if [Student] didn't brush their teeth. If your concern is that we are not having [Student] brush their teeth correctly here at school maybe this can be an at-home task so [Student] is doing it as your family dentist has shown [Student].”*
 23. On May 17, 2022, the Superintendent emailed the Parent: *“I am writing in response to your email from May 9, 2022. Thank you for summarizing your concerns and submitting them to me. After carefully investigating these concerns and discussing this matter with our staff, I am confident that the district developed and implemented [Student's] IEP appropriately and in a manner consistent with the requirements of state and federal law. In your email, you discuss that you do not anticipate that any further action will be taken in response to your concerns. In reviewing your communications I could not identify any specific requests for the school district to consider the initiation or change of the identification, evaluation, or educational placement of [Student] or the provision of free appropriate public education to [Student]. If you wish for the district to consider and respond to any specific requests, you may submit them for consideration.”*
 24. On July 18, 2022, the District issued a Notice of Meeting to the Parent. The purpose of the meeting was to *“develop, review and/ or revise your child's individualized education plan (IEP). . . With your input we can develop an individualized education plan that is appropriate for your*

child. If you would like, you may review your child's education records prior to the meeting. You may also bring other individuals with you who are knowledgeable about your child and your child's needs. At the IEP meeting, we will be discussing:

- a. Your child's academic achievement and functional performance;
 - b. Any special education and related services and supplementary aids and services which your child may require;
 - c. Appropriate annual goals; and
 - d. The extent of your child's participation in the general curriculum and/or necessary modifications." The IEP Team meeting was scheduled for July 25, 2022."
25. The July 25, 2022, IEP in effect August 11, 2022, to July 24, 2023, stated the family's concerns are getting back into a routine with school, managing [Student's] anxiety, and social concerns. Parents are also concerned with [Student] being able to identify who is a friend and who is a bully.
26. In a Prior Written Notice dated August 3, 2022, the District proposed the following:
- a. The District is proposing to update the accommodations, modifications, and services schedules to align with the Student's junior high school day;
 - b. The District is proposing to remove the "Communication" paragraph (numbered paragraph 5 on the previous IEP) from the table of program modifications and accommodations; and
 - c. The District is proposing to update Goal 3 of the Student's IEP in order to ensure that it is clear, measurable, and consistent with the Student's needs during the upcoming school year.

An explanation of why the district proposed to take the action included:

- a. The District is proposing to update the accommodations, modifications, and service schedules to align with the Student's junior high school day because that is the most appropriate way to accommodate the Student in 7th grade and ensure that the Student is provided a free appropriate public education in the least restrictive environment;
- b. The District is proposing to remove the "communication" paragraph (numbered paragraph 5 on the previous IEP) from the table of program modifications and accommodations because the daily communication log contemplated by that section is not a special education or related service or accommodation that the Student requires in order to access their education or receive a free appropriate public education. Instead, communication initiated at

the discretion of the district or the family on an as needed basis is appropriate; and

- c. The District is proposing to update Goal 3 of the Student's IEP in order to ensure that it is clear, measurable, and consistent with the Student's needs during the upcoming school year. This is consistent with guidance from the Nebraska Department of Education. Further, this goal is an appropriately ambitious goal specifically tailored to the Student's unique needs in order to facilitate the Student's social and vocational development.*

A description of other options the IEP Team considered and why those options were rejected are:

- a. The District considered leaving in place scheduling and accommodation language that no longer applied to the Student's schedule in 7th grade. The District rejected that option because the Student's schedule and needs changed due to grade-level advancement;*
 - b. The District considered leaving in place the communication protocols included in the previous IEP as requested by the family. The District rejected this option because the Student does not require such accommodation or service in order to access their education or receive FAPE; and*
 - c. The District considered omitting a goal related to hygiene from the Student's IEP but determined that it would be an appropriately ambitious goal for the Student that would facilitate the Student's social and vocational development. The District considered a goal that tied to the Student's participation in physical education but rejected that option because the goal then would not be monitored for the first semester of the school year when the Student is not scheduled to participate in physical education.*
27. The Hygiene Checklist Forms for August 11–October 21, 2022, included changes from previous formats and included a different recording system.
28. The District provided Student work samples that included vocabulary activities stating target words, synonyms, antonyms, pictures, sentence writing, and rating the Student's understanding of the vocabulary words. (Progress Report with data included dated October 21, 2022)
29. On September 1, 2022, the Parent emailed the School: "I would like to schedule an IEP meeting for [Student]. I have retained a lawyer who will accompany me to the meeting. Could you please send me some dates and times that might work for the school members of [Student's] IEP team? We'd be available starting the week of September 19."

30. On September 20, 2022, the Parent emailed one of the Student's classroom teachers: "As you noted in your email on September 6, 2022, [Student] has been experiencing challenges doing grade-level work. I believe that [Student] has been experiencing difficulties doing this assignment due to [Student's] low comprehension, fine motor skills, and [Student's] cognitive abilities due to [Student's] noted disabilities. I have seen and heard that [Student] was able to do more work on the projects and was able to complete some of them after the original due date but [Student] told me some of the creations were not being accepted. Is [Student] able to submit any of [Student's] creations with [Student's] disability and [Student's] IEP being kept in mind?"
31. On September 20, 2022, the classroom teacher responded: "[Student] is still able to complete any of the back missing assignments. I know of two assignments that are missing from when [Student] leaves early on Mondays. As a scheduled absence, [Student] is aware that [Student] needs to make up missed work, and I have let [Student] and [Student's] aid know of the missing work." Honestly, the biggest issue I have seen is refocusing issues, not anything cognitive or motor skill related. Between [Student's] classroom aide and myself, we have worked to refocus [Student]. During Access [Student] would come in and flounder. If we had [Student] sit down and make a goal for the period of what we wanted to get accomplished, [Student] was much better."
32. On September 27, 2022, the District issued a Notice of Meeting to the Parent. The purpose of the meeting was to: "review the Multidisciplinary Team (MDT) Report and determine your child's eligibility for special education and related services. We must meet with you to review these results for your child to determine, with your input, whether your child meets the criteria to qualify for special education services. . . . At the IEP meeting, we will typically be discussing:
- a. any special education and related services and supplementary aids and services which your child may require;
 - b. appropriate annual goals; and
 - c. the extent of your child's participation in the general curriculum and/or necessary modifications."

The IEP Team meeting was scheduled for October 5, 2022.

33. The October 5, 2022, IEP, in effect from October 24, 2022, to October 4, 2023, documented the following updates:
- a. "The Parent was concerned the District stated that we can submit a statement of parental concerns that will be included in the [Student's] IEP. . . . We continue to be concerned about the

ongoing bullying that [Student's] experiences on the bus, including being taunted and having candy wrappers thrown at [Student's] head while on the bus. We are concerned that due to the Student's disability-related challenges, [Student] lacks the skills to respond appropriately or report bullying or other potential abuse. [Student] does not always understand when others are being unkind, and we are concerned that [they] have persistently been a target for bullying at school";

- b. "... the District has been dismissive of [Student's] executive functioning and organizational challenges, despite the fact that these challenges were most prevalent in a class that required practical application of skills, the type of skills that will be of particular importance for [Student] as a future employee in a job in the real world"; and present levels section of [Student's] IEP, "That chapter books are difficult [Student]" was a concern for the Parent. Parents requested consideration for a reading goal so that the Student could read age-and- grade-appropriate books. The district replied that the statement in present levels was not current for this school year and that this year the Student does not have trouble reading chapter books."

The Parent renewed their request for a comprehensive reevaluation for the Student to be conducted that semester rather than spring, as proposed by the District. . . . "We continue to be concerned that [Student's] IEP has not provided and does not provide FAPE, and we believe that a thorough, updated assessment will be needed in order to adequately address those issues."

The October 5, 2022, IEP stated: "[Student] has done all reading out loud in the English classroom. [Student] does very well with comprehension when the reading is read out loud to the Student. The teacher states that chapter books are difficult for the Student. The English teacher states [they] see no concerns with [Student's] Comprehension from the in-class activities that the Student has participated in."

34. The October 5, 2022, IEP included the following MAP Reading scores:
 - a. Fall 2021 Reading Rit Score was 209, percentile range was 47;
 - b. Winter 2021 Reading Rit Score was 192, percentile range was 14;
 - c. Fall 2022 Reading Rit Score was 199, percentile range of 18; and
 - d. Winter 2022 Reading Rit Score was 201, percentile range 21.

35. A Prior Written Notice dated October 18, 2022, included a description of other options the IEP Team considered and the reasons why those options were rejected:

- a. *"The District considered adopting a goal specific to [Student's] executive functioning. The District rejected this option as [Student's] executive functioning needs are adequately addressed by [Student's] services and accommodations. [Student's] progress is best facilitated by the focus on and measurement of the goals identified in the IEP, and in many aspects, [Student's] goals correlate directly to executive functioning, especially as it relates to the application of developed social skills and the execution of the multi-step hygiene-related tasks and assessments;*
- b. *The District considered adopting a goal specific to the Student's reading level. The District rejected this option as the Student has shown appropriate progress in the area of reading, reading is not impeding progress or performance in other areas, and the Student is adequately supported by services and accommodations;*
- c. *The District considered implementing a communication plan as requested by the family. The District rejected this option because the Student does not require such accommodation or service in order to access the Student's education or receive FAPE. Such a plan would, therefore, not constitute a special education or related service; and*
- d. *The District considered keeping the voice-to-text as an optional accommodation on all assignments but rejected that option due to concerns regarding the Student's fatigue from lengthy writing assignments."*

36. On October 18, 2022, the District proposed to adjust the AT/Accommodation for "voice-to-text writing for lengthy writing assignments" to be a required accommodation to address issues of fatigue from writing. (Prior Written Notice included in IEP dated October 5, 2022)

37. Between October 21, 2022, through December 20, 2022, the District utilized a hygiene checklist with the Student for the following IEP goal: "By the next annual review date, [Student] will demonstrate knowledge of appropriate completion of hygiene tasks brushing hair, brushing teeth, and applying deodorant), the ability to properly self-assess the Student's hygiene needs with respect to these tasks, and the ability to demonstrate proper technique for the appropriate duration of those hygiene tasks

when self-assessed as a need on 4 out of 5 days improving from 1 out of 5 days.”

According to the October 21, 2022, Progress Report for Goal #1: “By the next annual IEP due date, [Student] will produce the /r/ speech sound in all positions of single words with 90% accuracy, according to teacher observation, oral performance, and parent report progress was made but the goal was not met. Progress is sufficient to meet this goal by the end of the IEP. “According to the comment section, the Student has some trouble with articulating the /r/ sounds correctly in conversational speech. “[Student] can produce /r/ sounds in syllables with 90% accuracy. [Student] follows along very well and tries hard.”

According to the October 21, 2022, Progress Report for Goal #2: “By the next annual IEP, [Student] will improve receptive and expressive language skills through direct instruction by the speech-language pathologist and resource teacher during structured activities with 85% accuracy on 3 of 4 trials according to teacher observation,” Student performance progress was made but the goal was not met. Progress is sufficient to meet this goal by the end of the IEP year. According to the comment section, “[Student] has done a better job with recalling sentences without omitting and substituting words, but still needs some cues for complete accuracy. [Student’s] comprehension continues to improve and use skills that are taught in many subject areas. [Student] does well with listening comprehension. [Student’s] use of correct grammar when producing sentences continue to show improvement, but still need cues for correct accuracy. [Student] is achieving 80% accuracy on complete sentences.”

According to the October 21, 2022, Progress Report for Goal #3: “By the next annual review date, [Student] will demonstrate knowledge of appropriate completion of hygiene tasks (brushing hair, brushing teeth, and applying deodorant), the ability to properly self-assess [Student] hygiene needs with respect to these tasks, and the ability to demonstrate proper technique for the appropriate duration of those hygiene tasks when self-assessed as a need on 4 out of 5 days improving from 1 out of 5 days, according to teacher observation, written performance, and oral performance, and Parent report.” The progress to meet the goal by the end of the IEP year is sufficient to meet the goal. According to the comment section “[Student] does a great job about coming back to complete [Student’s] hygiene goal. There have been a couple of days that staff have had to go find [Student] but [Student] is generally finishing

up breakfast and hasn't forgotten. [Student] self-assesses very well and always says [Student] needs to brush [Student's] teeth. A staff member observes as [Student] sets a timer, and brushes their teeth. [Student] continues to work on this skill with the school staff, but is not defiant and is very willing to work towards this hygiene goal."

According to the October 21, 2022, Progress Report for Goal #4: "By the next annual IEP, when given scenarios of social conflicts, [Student] will demonstrate problem-solving social skills in story or picture format by identifying the problem and generating two solutions appropriate to the situation in 4/5 trials, as measured by data collection, according to teacher observation, written performance, and oral performance." The progress measurement states that progress was made but the goal was not met. "[Student] is making sufficient progress to meet the goal by the end of the IEP year. Comments indicate that "[Student] is working with middle school social stories with a staff member. [Student's] go-to answer to solve problems is to 'tell a teacher.' [Student] still struggles with other problem-solving solutions. [Student] does understand what emotion the social story might emit from [Student] or someone else."

According to the October 21, 2022, Progress Report for Goal #5: "By the next annual IEP, [Student] will be able to initiate seeking out appropriate adult support for conflict resolution on 4 out of 5 occasions that is observed. Adult support is necessary or appropriate to address social conflict, according to teacher observations." Progress was made toward the goal but the goal was not met. Sufficient progress was not made to meet the goal by the end of the IEP year.

38. The Student's 2022–23 first semester grades as of December 21, 2022, are as follows:

- a. English 07, B+ 90.1 %
- b. Math 07, B- 82.7%
- c. Science 07, C+ 80 %
- d. Exploratory 7, B- 83.2%
- e. JH Learning 4A, incomplete
- f. JH Learning 4B, incomplete
- g. JH 5th PD, incomplete
- h. Extra-Curricular, incomplete (Progress Report with data included dated October 21, 2022)

Issue #1

Was the District required to include annual IEP goals for reading comprehension and executive functioning in the Student's IEP?

92 NAC § 51-007.07A2 states:

- 007.07A2 *An IEP shall include a statement of measurable annual goals, including academic and functional goals, designed to:*
 - 007.07A2a *Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; or for preschool children, as appropriate, to participate in appropriate activities; and*
 - 007.07A2b *Meet each of the child's other educational needs that result from the child's disability.*

Parent Allegations

The Parent contends that the District inappropriately refused to include an annual reading comprehension and executive functioning goal, in the Student's IEP.

District Response

The Student's annual IEP goals were reasonably calculated to enable the Student to make appropriate progress in light of the Student's individual circumstances in accordance with 92 NAC § 51-007.07A2. The Student's progress, performance, and needs were appropriately addressed and assessed by the goals in the IEP, and the District was not required to incorporate the specific goals proposed by the Complainant.

Investigative Findings

The Student's eligibility for special education services was based on an MDT dated February 10, 2020. The Student's overall reading skills fell in the below-average range. The Student's reading comprehension scores fell within the average range. The evaluation report noted that the Student was able to answer literal questions and struggled with questions related to opinions and inferences. Recommendations to support the Student included new vocabulary taught in an explicit way, learning strategies to help with executive functioning skills such as how to self-monitor attention to instruction and work, and time management skills. Although during the IEP dated October 5, 2022, the parents requested a full and comprehensive evaluation of the student, and the Notice of Meeting dated September 27, 2022, indicated that the upcoming IEP was to review the results of a recent MDT, no new MDT has been conducted to date.

The April 2021 IEP included vocabulary instruction, an accommodation for homework, a short-term objective for reading comprehension, and three hours of extended school-year services for reading and vocabulary instruction. The January 2022 IEP included a hygiene goal with a checklist system, a social skills goal with instruction, and a short-term objective that addressed reading comprehension and vocabulary development. The IEP was revised for the Student's transition from elementary to middle school. The accommodation for homework was continued. The IEP Team met on July 25, 2022, and updated the Student's IEP to include a short-term objective for reading comprehension, a hygiene goal in which the Student would self-assess their hygiene needs, then follow a cleanliness procedure. The social skills goal continued to include social-emotional vocabulary instruction.

During the October 5, 2022, IEP Team meeting, the Parent requested the addition of a reading comprehension goal to the IEP. The District declined to include a separate goal for reading comprehension, as the IEP included a short-term objective for reading comprehension included in Goal 2 of the IEP. The Parent voiced concern for the Student's hygiene and social skills and also requested an executive functioning goal. In an effort to address the Student's needs in all three areas, the District embedded executive functioning skill-building into the hygiene and social skills goals. Correspondingly, the District then declined to develop a separate executive functioning goal, as it was already addressed in the hygiene and social skills goals. Again, the most recent MDT was conducted on February 10, 2020, indicated concerns with both reading and executive functioning were used to develop the IEP and the IEP included short-term objectives to address these areas.

When the Parent requested an IEP goal for reading comprehension the District utilized the information available including Parent and Teacher input, the Student's grades and performance in class, and existing supports within the IEP and included short-term objectives to address reading comprehension. The District addressed the Student's executive functioning needs through the hygiene and social skills goals that were included in the Student's IEP.

Summary and Conclusions

The IEPs in effect during the Complaint period addressed the Student's needs related to reading comprehension and executive functioning skills. The District implemented the requirements of 92 NAC § 51-007.07A2 and **no corrective action** is required.

Issue #2

Did the District comply with the requirements for the Student's IEP team to meet at least annually to develop an IEP, and determine whether the annual goals for the child were being achieved?

92 NAC § 51-007.07A2 states:

007.07A2 *The IEP shall include a statement of measurable annual goals, including academic and functional goals, designed to:*

007.07A2a *Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; or for preschool children, as appropriate, to participate in appropriate activities, and*

007.07A2b *Meet each of the child's other educational needs that result from the child's disability.*

92 NAC § 51-007.09C states:

007.09C *The IEP team shall review the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved.*

92 NAC § 51-007.10 states:

007.10 *The IEP team shall revise the IEP as appropriate to address:*

007.10A *Any lack of expected progress toward the annual goals described in 92 NAC § 51-007.07 and in the general education curriculum, if appropriate;*

007.10B *The results of any reevaluation conducted under 92 NAC § 51-006.05A;*

007.10C *The information about the child provided to, or by, the parents, as described in 92 NAC § 51-006.06A1;*

007.10D *The child's anticipated needs; or*

007.10E *Other matters.*

Parent Allegations

The IEP Team meetings held during the complaint investigation period should have been considered IEP amendment meetings and not the annual IEP meeting. Further, the District provided the Parent with vague, recycled statements in its progress reports.

District Response

The IEP Team convened on at least an annual basis. For example, the IEP Team convened on July 25, 2022, and October 5, 2022. Second, at each of these meetings, the Student's IEP was reviewed and revised to address the Student's progress, evaluation results, and information the Parent provided. The Parent attended each of these IEP Team meetings related to the Student's education and the District asserts the Parent was a full and meaningful participant in those meetings. During those meetings, the IEP Team collected and considered information the Parent provided and used that data—in conjunction with all other available data—to make educationally appropriate decisions related to the Student's needs, services, and placement. (Letter of Response dated January 5, 2023)

Investigative Findings

The IEPs relevant during this complaint investigation are the ones dated April 26, 2021; January 10, 2022, July 25, 2022, and October 5, 2022.

The Parent contends that the meetings held in between the annual IEP review dates were IEP amendment meetings, not annual IEP review meetings. During interviews, the Parent's Attorney recalled that the District agreed that some IEP annual review due dates were miscalculated and that the dates would be corrected. Instead, the dates in error were replicated in future IEPs (Interview with Parent and Attorney, January 10, 2023). The District's Special Education Case Manager provided in a written statement: *"The IEP meetings in between annual due dates were not considered to be IEP amendment meetings for several reasons. First, at each of the IEP meetings the entire IEP team convened. Second, the entire IEP document was reviewed and reconsidered during each meeting. Third, if the meeting was an IEP amendment meeting, only a portion of the IEP would have been considered and changes to the existing IEP would have been made. Here, at each of the meetings, a full reconsideration, redrafting and review of the IEP occurred where a new IEP was drafted."* (Email between Complaint Investigator and District dated January 20, 2023)

When comparing the April 26, 2021, and January 10, 2022, IEPs, it was noted that the Present Levels of Academic Achievement and Academic Performance (PLAAPF), IEP goals, and special education services contained both similar and new information. Some of the goals had been revised and accommodations and service times had been adjusted for the Student's transition to middle school the following school year.

The comparison between the Student's January 10, 2022, and July 25, 2022, IEPs, reflected PLAAPFs that were almost identical, and all but one IEP goal remained unchanged; the hygiene goal, special education services, and accommodations had been adjusted.

The differences between the July 25, 2022, and October 5, 2022 IEPs were notably greater. Although the October 5, 2022, IEP included outdated information from previous IEPs, it included new, additional information and provided a present level of performance about the Student's skills and needs, and included revised and new annual goals.

The District's record demonstrates a pattern of the Student's IEP Team convening every few months to review the IEP. The IEP documents consistently included information from the previous IEP Team meetings and updated information about the Student, but the IEP Team did not address all IEP areas during these meetings. The IEP goals and services were minimally adjusted, and the Prior Written Notices are written in a fashion that indicates the IEP Team meetings were IEP amendment meetings rather than annual IEP review meetings. Further, the Parents indicated that the District informed them the "in effect" dates were incorrect and the errors

were never corrected. The District did not provide adequate information at the IEP Team meetings to determine whether the annual goals for the Student were being achieved.

Summary and Conclusions

Although the District amended the Student's IEP multiple times, the District failed to make substantive changes to the IEP on an annual basis. Due to the Parent's concerns regarding the Student's performance, a re-evaluation has not yet been conducted to determine whether additional areas of need have emerged since the last evaluation. As a result, the District failed to implement the requirements of 92 NAC § 51-007.09C, and **corrective action is required**.

Corrective Action

Revision of Procedures:

1. The district must revise its procedures regarding IEP amendments to include:
 - a. How amendments are documented within the electronic system
 - b. How dates on Annual Review are distinguished between amended IEPs
2. The District must revise its procedures regarding Notice of Meeting to ensure:
 - a. Meeting Notices accurately reflect the purpose of the meeting which may include:
 - i. Lack of expected progress toward annual goals and progress in the general education curriculum
 - ii. Results of any reevaluation
 - iii. Information about the child provided to, or by, the parents
 - iv. Child's anticipated needs; or
 - v. Other matters
3. The revised procedures must be submitted to NDE within 30 calendar days of the date of this Report.

Conduct a Reevaluation

1. The District must obtain Parental Consent to conduct a re-evaluation of the Student as requested by the Parent during the October 5, 2022, IEP to determine additional Student needs that have emerged since the previous MDT was conducted.
 - a. Parental consent must be sought and obtained within 10 calendar days of the date of this Report.
 - b. The MDT must be conducted within 60 calendar days of the District obtaining consent.

2. A copy of the signed consent must be provided to NDE within 10 calendar days of obtaining consent.
3. A copy of the completed MDT report must be provided to NDE within 10 days of the conclusion of the MDT which should be within 60 calendar days of receiving signed consent.

Convene an IEP Meeting

1. Within 60 calendar days of obtaining signed parental consent, the district shall develop an IEP for the Student.
 - a. The IEP developed will be considered a “new IEP” and be the official date for when all subsequent IEPs must be conducted regardless of IEP meetings held to create needed amendments.
2. A copy of the IEP will be provided to NDE within 10 days of the meeting and shall include:
 - a. Goals, special education, and related services designed to address the educational needs determined by the recent MDT

Conduct Training for Staff

1. The district must conduct training for the following individuals:
 - a. Special education teachers
 - b. Any individual who may serve as an LEA on an IEP team
 - c. All related services providers
 - d. Others as the District deems necessary
2. The training must cover the following areas:
 - a. The revised procedures related to amending IEPs including:
 - i. How amendments are documented within the electronic system
 - ii. How dates on Annual Review are distinguished between amended IEPs
 - b. The revised procedures related to identifying an accurate purpose of the meeting on the Notice of Meeting may include:
 - i. Lack of expected progress toward annual goals and progress in the general education curriculum
 - ii. Results of any reevaluation
 - iii. Information about the child provided to, or by, the parents
 - iv. Child's anticipated needs; or
 - v. Other matters
3. The training materials must be provided to NDE within 60 calendar days of the date of this Report.
4. The training must be conducted within 75 calendar days of the date of this Report.

Issue #3

Did the District's errors or omissions result in a denial of FAPE?

92 NAC § 51-003.24 states:

003.24 *A free appropriate public education or FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge: meet the standards of the state including the requirements of this Chapter; include an appropriate preschool, elementary school, or secondary school education in Nebraska and are provided in conformity with an individualized education program (IEP) that meets the requirements of 92 NAC § 51-007.*

Parent Allegations

The District has repeatedly and inappropriately extended the time period for the achievement of the Student's annual IEP goals in a manner that violates the FAPE requirement that the Student's IEP contains appropriately ambitious annual goals.

District Response

The District complied with all aspects of Rule 51, including the requirements regarding the development and implementation of appropriate, measurable goals, the provision of ESY services, and the appropriate timelines for goals. As the District complied with Rule 51 for all of these issues, there is no evidence to suggest the District did not provide the Student with FAPE.

Investigative Findings

The District failed to convene a legally compliant annual IEP Team meeting to review the IEP and determine whether the Student was making progress toward annual goals. This substantiated violation is procedural in nature, and the District continued to provide the Student with special education services despite the error. The regulations implementing the IDEA at 34 C.F.R. § 300.513(a)(2) sets forth, "In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies impeded the child's right to a FAPE; significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or caused a deprivation of educational benefit." In this case, the Parent was provided with numerous opportunities to participate in the decision-making process through several IEP Team meetings and all of the Parent input was included in the Student's IEPs. The Student received all passing grades for the core subject areas and was making progress toward their IEP

goals. This would indicate the Student's right to a FAPE was not impeded nor deprived of educational benefit.

Summary and Conclusions

The procedural violation did not constitute a denial of a FAPE for the Student. The District implemented the requirements of 92 NAC § 51-003.24 and **no corrective action** is required.

Notice to District

Unless otherwise indicated, the corrective action specified must be completed within sixty (60) calendar days of the date of this report. Documentation must be submitted as soon as possible following the completion of the corrective actions. All documentation of correction must be sent to:

Christopher Chambers, Complaint Specialist
Nebraska Department of Education Office of Special Education
nde.speddr@nebraska.gov