

COMPLAINT INVESTIGATION REPORT

Complaint Number: 22.23.13
Complaint Investigator: [Redacted]
Date Complaint Filed: December 7, 2022
Date of Report: [Redacted]

Issues Investigated

1. Did the District conduct reevaluations of the Student at least once every three years; or did the parent and the school district or approved cooperative agree that a reevaluation was unnecessary? [92 NAC § 51-006.05B2]
2. Did the District develop, review, revise, and implement the Students' IEPs? [92 NAC § 51-007.01]
3. Did the District include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and the transition services (including course of study) needed to assist the child in reaching those goals? [92 NAC § 51-007.07A9]
4. Did the District include in the Student's IEP a statement of the special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining annual goals? [92 NAC § 51-007.07A5]
5. Did any of the above issues impact other students in the District's transition program and thus reflect a more systemic issue?

Information Reviewed by Investigator

From the Complainant

- Letter of Complaint the Nebraska Department of Education (NDE) received on December 7, 2022
- Phone interview with the Parent conducted January 17, 2023
- Email Complainant sent to the District dated August 31, 2022
- Emails from the District to the Parent dated January 17–20, 2023
- Text message communication to Parent from District staff dated March 2, 2022, and August 12, 16, and 25, 2022

From the School District

- Letter of Response dated January 9, 2023; received by NDE January 9, 2023
- Evaluation Report dated November 11, 2013
- The District's Transition Plan (for Student's transition into the District) dated November 4, 2020
- Multidisciplinary Team Report (MDT) for Student dated August 22, 2022
- Individualized Education Programs (IEPs) and associated Prior Written Notices (PWNs) for Student dated August 12, 2021, and February 10, 2022
- Student Daily Schedules dated August of 2021–December of 2022
- Brief descriptions of transition interviews dated February 8, 2022, from both the Parent and the Student
- Transition Planning Inventory - Second Edition, dated November 9, 2020
- Life Skills Transition Assessment dated December 5, 2022
- Incomplete Parent Structured Transition Interview Assessment dated December 12, 2022
- High School Student Structured Transition Interview Assessment dated November 30, 2022
- Email correspondence between the Investigator and the District dated January 24 and 25, 2023 including questions and clarification on information provided by the District

Introduction

This complaint was filed on behalf of a 21-year-old student who is attending the District's post high school transition program. The Student is eligible as a student with an Other Health Impairment due to a diagnosis of attention deficit hyperactivity disorder (ADHD). Information provided prior to the one-year timeline this investigation covers is in an effort to provide context as the investigator only considers events that took place from December 8, 2021–December 7, 2022. Further, this investigation covers only issues related to the Individuals with Disabilities Education Act (IDEA), its implementing regulations, and Nebraska Rule 51. NDE referred complaint issues related to professional practice for separate investigation under Rule 27.

The Parent referenced in the initial letter of complaint the fact that the issues raised were likely to be impacting other students. To address this concern, a survey was developed and distributed to the parents of other students in the program to gather information on the issues investigated on a more systemic level.

It is also important to note that the District and the Parent signed an agreement to participate in mediation on December 14, 2022. As a result, the original timeline for this investigation was extended.

Findings of Fact

1. The Student was found eligible in elementary school as a student with an Other Health Impairment as evidenced by reevaluation documentation in 2013 when the Student was in 6th grade. (MDT Report dated November 11, 2013)
2. The Student was served in a different school district until moving to the District in November of 2020 (District Transition Plan dated November 4, 2020)
3. Documents suggest that outside providers have also diagnosed the Student with anxiety, obsessive-compulsive disorder (OCD) (Evaluation Report dated November 11, 2013) and autism spectrum disorder in 2019 (IEP dated February 10, 2022)
4. The IEP Team developed an IEP for the Student on August 12, 2021. (IEP dated August 12, 2021)
5. The IEP included 10 minutes a week of job coaching at the Student's place of employment. (IEP dated August 12, 2021)
6. During this time, the Parent was paying for outside services to support the Student outside of work hours, costing \$600–700 per month (Letter of Complaint received by NDE December 7, 2022)
7. The Parent requested an IEP Team meeting in February of 2022, after the Student had been terminated from employment and the Student's service needs changed. (Parent interview conducted January 17, 2023)
8. The Parent provided the investigator several text messages reflecting the changes to the Student's schedule, the District picking up the child late, and/or District paraprofessionals not reporting for scheduled services in the Student's home (Text messages dated March 2, August 12, 16, and 25, 2022)
9. The IEP Team reconvened on February 10, 2022. The IEP Team revised the Student's IEP to reflect 60 minutes of special education services daily. (IEP dated February 10, 2022)
10. The District provided Schedules which indicate the transition activities the Student would participate in from 9:15a.m.–2:30 p.m. daily (Daily Schedules dated August 2021–December 2022)
11. From February 14–December, 2022, the District developed four different schedules, listing direct services provided for 3.5–5 hours daily. (Daily Schedules dated August of 2021–December of 2022)

12. The Parent stated that although the schedules reflected the District picking up the Student at either 9:15 or 9:30 a.m., the District often picked up the Student far later, in many cases at or after 10:00 a.m. In the fall of 2022, service delivery became even less consistent and, “there was no plan. They would pick [the Student] up at random times. [The Student] was back home within an hour.” (Parent interview conducted January 17, 2023)
13. The Parent provided text message communication where the Parent asked why the Student's IEP only reflected 60 minutes of special education services. The District responded, “It is 60 minutes per day. That is a minimum. We can always do more and still be in compliance- we just can't do less than that.”
14. OCR found Palm Springs Unified School District had discriminated against 18–22-year-old students by shortening their school day without providing evaluation of their individual needs. (61 IDELR 174)
15. Specifically, the above finding states, “a student with a disability is entitled to the same number of instructional hours as her nondisabled peers unless her IEP team makes an individualized determination that she requires a shortened school day.” (61 IDELR 174)
16. The District conducted a transition assessment with the Student in 2020 through a Student Preferences & Interests Form. (Transition Planning Inventory dated November 9, 2000)
17. The District did not provide information reflecting transition assessment data from the Parent in 2020. (District Letter of Response dated January 9, 2023)
18. The Parent sent an email to the District in August of 2022 outlining requests and suggestions related to the Student's independent living needs. (Email dated August 31, 2022)
19. The District conducted the following transition assessments more recently:
 - a. High School Student Structured Transition Interview Assessment- completed by the Student (dated November 30, 2022)
 - b. Life Skills Transition Assessment- completed by the Student (dated December 5, 2022)
 - c. Incomplete Parent Structured Transition Interview (dated December 19, 2022)
20. Results from the transition assessment include the Student's self-reported needs in the following areas: use of public transportation, understanding how to count change received, using an ATM machine, understanding how credit cards work with interest, and understanding how loans work with interest. (Life Skills Transition Assessment dated December 5, 2020)

21. The Parent Interview includes 19 questions, of which only three have any response, most of the survey responses are blank. The survey response regarding independent living reflects the Parent's concern about transportation, doing laundry, personal hygiene, money management, and math skills. (Parent Structured Transition Interview dated December 19, 2022)
22. The Student's Present Levels of Academic Achievement and Functional Performance read, "The team has discussed with [the Student] about getting another job and what steps need to take place in order to do that. [The Student] will be working on hygiene as well as staying in class to demonstrate responsibility." (IEP dated February 10, 2022)
23. The transition assessment indicated that the Student planned to live at home with family following completion of the program, though would like to "move independently later." (High School Student Structured Transition Interview Assessment conducted November 30, 2022)
24. The summary of the transition assessment also includes the following, "[the Parent] is concerned that [the Student] needs help with independent living skills and social skills." (IEP dated February 10, 2022)
25. The Student's IEP subsequently reads, "The current transition assessment results were considered and the IEP team determined that a postsecondary goal in independent living is not appropriate at this time." (IEP dated February 10, 2022)
26. The following postsecondary goal appears twice in the Student's IEP, first under the heading Education/Training, and then under the heading Employment: "[Upon completion of services at [the District], [the Student] will be employed at least part time for pay in the community. (IEP dated February 10, 2022)
27. The only transition service listed on the Student's IEP is "interning at a new business in the community." (IEP dated February 10, 2022)
28. The District developed schedules for the student for February 14–December 2022 that include 1:1 support from special education staff completing a "chores list" in the home. (Daily Schedules dated August 2021–December 2022)
29. Daily chore lists include tasks such as: put clean dishes away, wash dirty dishes, clean kitchen appliances and counter, wipe down table and fridge, dust, sweep, gather trash and take outside, replace bags in garbage cans, clean glass and wood, vacuum downstairs, and check medication bottles and call-in refills if needed.
30. The Student's IEP includes the following as Transition Service 1: "Interning at a new business in the community." (IEP dated February 10, 2022)

31. The Statement of Special Education and Related Services outlines 60 minutes/day of Special Instruction (Resource) in the Public School location (IEP dated February 10, 2022)
32. The IEP lists visual schedules and “computer for typing- if necessary,” as consideration of assistive technology needs. (IEP dated February 10, 2022)
33. The services section of the Student’s IEP reads “[The Student] benefits from supports such as small class size, structured schedules and routines.” (IEP dated February 10, 2022)
34. The Student’s IEP reflects transportation being provided as a related service. (IEP dated February 10, 2022)

Issue # 1

Did the District conduct reevaluations of the Student at least once every three years; or did the parent and the school district or approved cooperative agree that a reevaluation was unnecessary? [92 NAC § 51-006.05B2]

92 NAC § 51-006.05B states:

- | | |
|----------|--|
| 006.05B | <i>A reevaluation conducted under subsection 006.05 of this Chapter:</i> |
| 006.05B1 | <i>May occur not more than once a year, unless the parent and the school district or approved cooperative agree otherwise; and</i> |
| 006.05B2 | <i>Must occur at least once every three years, unless the parent and the school district or approved cooperative agree that a reevaluation is unnecessary.</i> |

Allegations/Parent Position

According to the Parent, the last time the District reevaluated the Student was in 2013, when the Student was in the sixth grade. In August of 2022, the district provided a form for the Parent to sign, but did not provide adequate explanation such that the Parent understood that the District was proposing not to complete a reevaluation, and instead to use current observation data.

District Response

Several discussions took place regarding current data and the Parent signed the Prior Written Notice which stated that no additional information was needed to determine the Student’s continued eligibility.

Investigative Findings

- The District formally tested the Student in 2013, which included academic testing (Kaufman Test of Educational Achievement | Second Edition (KTEA™-II), behavioral testing (Conners 3rd Edition and Behavior Assessment System for Children: Second Edition (BASC-2)), and a classroom observation. (Evaluation Report dated November 11, 2013)
- While the 2013 formal testing identified the Student with Other Health Impairment based on a diagnosis of ADHD, the data review references a number of other areas of concern including medical diagnoses of anxiety and OCD, as well as a fine motor delay and social concerns. (Evaluation Report dated November 11, 2013)
- More recent documentation reflects a medical diagnosis of autism the Parent obtained from a private provider. (IEP dated February 10, 2022).
- According to the Parent, in both 2019 and 2022, the District determined that no additional testing was needed to determine the Student's continued eligibility, educational needs, present levels of academic achievement and related developmental needs, whether the Student continued to need special education and related services, and whether the Student needed any additions or modifications to the Student's special education and related services to enable the Student to meet the measurable annual goals set out in the Student's IEP and to participate, as appropriate, in the general education curriculum. According to the District, the 2019 MDT has been repeatedly requested from the former school district and has not been provided (Parent Interview conducted January 17, 2023 and email with the District dated January 25, 2023)
- The Parent reported, "They sent the form home and didn't explain it. Had I known that they were using an MDT from sixth grade, I would have asked for updated testing." (Parent interview conducted January 17, 2023)
- The Parent indicated that there are a number of statements in the Student's IEP that are inaccurate and went on to say, "I don't even feel like they know my kid." (Parent interview conducted January 17, 2023)
- When asked about how the District conducted the review of existing data, the District stated, "Part of the review of existing data took place during the annual IEP meeting. Then, as the review date got closer, [the Student's] IEP case manager visited with [the Parent] on the phone to discuss the evaluation and whether additional testing was needed for eligibility. The copy of the Determination notice was . . . either sent in the mail or home with [the Student]." (Email dated January 19, 2023)
- The MDT Report states, "[The Student] is currently working on improving social skills so that [the Student] can be successful on a job. These

include: completing a commitment as scheduled without attempting to shorten the time or get out of it, stating only factual information, completing a checklist of appropriate on the job behavior.” (MDT dated August 22, 2022)

- It further reads, under the heading *Students Actual Achievement Level*, “[The Student] completed commitments as scheduled 92% of the time from 2/24/22–5/20/22. [The Student] stated factual information 96% of the time from 2/24/22 through 5/20/22. [The Student] completed a checklist of appropriate on the job behavior 93% of the time from 2/24/22 through 5/20/22.” The same statement is repeated under the heading *Curriculum Based Measurement Performance Levels*. (MDT dated August 22, 2022)

Summary and Conclusions

Review of the file and discussion with the Parent suggest that the District had not adequately considered and conducted a reevaluation. To begin with, the purpose of reevaluation is not only to determine whether a child is eligible for continued services, but also to determine the educational needs of the child, the present levels of academic achievement and related developmental needs of the child, whether the child continues to need special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum. [92 NAC § 51-006.06A2]. The current MDT report does not reference the Student’s current abilities when it comes to cognitive, academic, motor, social, behavioral, or adaptive functioning, in spite of a history of challenges in all these areas and formal diagnoses made by outside professionals suggesting that the Student’s profile is far more complex than simply having ADHD. The current data is woefully inadequate to determine the Student’s educational needs, which may account for some of the disagreement that has fueled this complaint.

Based on the inadequate evaluation data used to make both eligibility decisions and to drive the Student’s programming, the District failed to fully implement the requirements of 92 NAC § 51-006.05B. Thus, **corrective action** is required and will be detailed at the end of this report.

Issue # 2

Did the District develop, review, revise, and implement the Students’ IEPs? [92 NAC § 51-007.01]

92 NAC § 51-007.01 states:

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

Allegations/Parent Position

During an interview conducted on January 17, 2023, the Parent alleges that the Student schedules the District provided do not reflect the actual services that the Student has received. The Parent does not agree that the 60 minutes of service listed on the Student's IEP is adequate to meet the Student's needs in preparation to transition from the program into adult life.

District Response

In its response to the complaint, the District stated its belief that the Parent was advocating for a "full day" of services and that instead the District developed an IEP which was "reasonably calculated to enable a child to make progress." The District went on to state, "As time goes on, an LEA should start lessening services to allow the student to better transition into adult life without support from the school district."

Investigatory Findings

As referenced in Issue #1, the District did not obtain adequate evaluation data to determine the Student's educational needs. This precludes the District's ability to develop an appropriate IEP in the first place. The District provided minimal transition services in the fall of 2021 and early part of 2022.

When the IEP Team revised the Student's IEP in February of 2022, it bore little resemblance to the services that the District subsequently provided. The District's comment about the Student's IEP reflecting "a minimum" of services is inaccurate. The IEP should reflect the commitment the District is making to provide the amount and type of services that the IEP Team agrees are necessary to enable the Student to make progress on IEP goals. The schedules the District shared with the parent provide a better reflection of what the IEP Team agreed the Student needed, and therefore, the IEP did not reflect the Student's needs. Furthermore, any change to the services listed on the IEP are, in essence, a change of placement, a decision which cannot be made unilaterally, and instead, must be made by the IEP Team.

Regardless of the perceptions of the IEP previously identified, there are some fundamental flaws with the IEP developed in February of 2022. The statement of special education and related services outlined 60 minutes/day of Special Instruction (Resource) in the *Public School* location. In addition, the IEP lists visual schedules and "computer for typing – if necessary" as a consideration of assistive technology needs and states that the [The Student] *benefits from supports such as small class size, structured schedules and routines*". The

supplementary aids and services and program modifications included in the Student's IEP lack the detail for frequency, location, and duration that special education law requires. 34 C.F.R. § 300.320(a)(7); 92 NAC § 51-007.07A8. Specifically, the IEP must note the frequency, location, and duration of supplementary aids and services and program modifications, as well as special education and related services and support for school personnel. The United States Department of Education has noted that an IEP must include enough specificity about the amount of services that will be provided to the child "so that the level of the [district]'s commitment of resources will be clear to the parents and other IEP team members." See 71 Fed. Reg. 46,540, 46,667 (Aug. 14, 2006) (codified at C.F.R. pts. 300 and 301).

Also of concern is the comment that, "As time goes on, an LEA should start lessening services to allow the student to better transition into adult life" While a gradual decline in support to promote independence may be warranted, this is an IEP Team decision which can be made only in the context of an IEP Team meeting. Further, changes to services provided must be reflected in the Student's IEP.

As outlined by OCR, students with disabilities are entitled to the same number of instructional hours as nondisabled students unless their IEP team determines that they need a shortened school day. The transition process should begin with comprehensive transition assessment, including input from the entire IEP team, including the Student and the Parent. In this case, over the course of 2 years, transition assessment was extremely limited, not including and documenting adequate input from the Student and Parent or gathering meaningful information from educators. When transition assessment is inadequate, there is not sufficient information to drive meaningful transition goals and services. The contradictions found in the IEP highlight the fact that the transition plan is not based on the Student's individual needs and rather, reflect an attempt at checking boxes and reacting to changes in the Student's employment instead of proactively designing a plan to make progress on specific goals.

Also of note, is the concern that the IEP dated February 10, 2022, had an "in effect" date of February 24, 2022 and Special Instruction (Resource) start date of March 3, 2022 almost a full month after the development of the IEP. 92 NAC § 51-009.04A3 states that "As soon as possible following the development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP." In this case, services were not made available to the child for a month after the IEP was developed.

Summary and Conclusions

Based on failures to develop a clear IEP that reflects the services being provided, and a failure to implement the services that the IEP agreed upon, as well as the extremely limited services provided, the District failed to fully implement the requirements of 92 NAC § 51-007.01. Thus, **corrective action is required**, and will be detailed at the end of this report.

Issue # 3

Did the District include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; needed to assist the child in reaching those goals? [92 NAC § 51-007.07A9]

92 NAC § 51-007.07 states:

- 007.07A9 *Beginning not later than the first IEP to be in effect when the child turns 16, or younger if deemed appropriate by the IEP team, and updated annually thereafter:*
 - 007.07A9a *Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;*
 - 007.07A9b *The transition services (including course of study) need to assist the child in reaching those goals;*

Allegations/Parent Position

In the initial letter of complaint, the Parent alleges the District has not consistently provided effective and high-quality services that have allowed the Student to make progress toward transition into adult life. Because the services provided by the District were so minimal in the fall of 2021, the Parent had to secure outside support for the Student and pay out-of-pocket for those services.

District Response

According to the District Letter of Response, dated January 9, 2023, the District has developed appropriate postsecondary goals based on previous and current transition assessment data.

Investigative Findings

Information from Issue #2 are included in this issue. The transition assessment from 2020 includes no information from the Parent and in 2022, very minimal input. The limited data provided clearly demonstrates limited skills in a number of areas beyond employment. The Parent clearly communicated concern about the Student's underdeveloped skills in the area of independent living.

In spite of the above, the Student's transition plan (both goals and services) focus solely on employment. One goal is repeated across two transition areas (education and training as well as employment), though education and training are not actually addressed. The IEP directly states that transition services in the area of independent living are not needed, contradicting transition assessment data.

Further, the services the District actually provided address independent living skills, which are "not needed" according to the IEP and are not listed or accounted for.

It is clear that an effective process of transition planning and appropriate documentation of such a plan has not been completed, and therefore, the Student's transition needs are unclear and are very unlikely to have been met while attending the program.

Summary and Conclusions

Based on the mismatch between transition assessment data, the Student's IEP, and actual services delivered, as well as the extremely limited services described in Issue #2, the District failed to fully implement the requirements of 92 NAC § 51-007.07. Thus, **corrective action is required**, and will be detailed at the conclusion of this report.

Issue #4

Did the District include in the Student's IEP a statement of the special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to advance appropriately toward attaining annual goals? [92 NAC § 51-007.07A5]

92 NAC § 51-007.07A5 states:

007.07 *The IEP shall include:*

007.07A5 *A statement of the special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:*

007.07A5a *To advance appropriately toward attaining the annual goals;*

Allegations/Parent Position

The District has not provided the services for which the Student was eligible.

District Response

According to the District's Letter of Response, the District believes that the above are adequately addressed in the Student's IEP.

Investigative Findings

Given the findings in the preceding issues, it is clear that the District has not undergone the IEP process thoroughly, beginning with appropriate and comprehensive evaluation. Because the District has not collected adequate data to determine the Student's needs, any services listed on the IEP are somewhat of a "stab in the dark."

Summary and Conclusions

While a statement of services and needed accommodations is made in the IEP, the findings in Issues #1 and #3 suggest the District did not gather adequate evaluation data to determine the individualized needs of the Student. Inadequate evaluation data also affects this issue as the IEP Team did not have the information needed to develop appropriate services and identify needed accommodation and modifications for the Student. Findings from Issue #2 add to the concerns noting that the accommodations and modifications did not incorporate the frequency, location, and duration of those services as required by 92 NAC § 51-007.07A8.

While the statements are listed in the IEP, they do not reflect the Student's individualized needs or the level of detail required, and therefore, the District failed to fully implement the requirements of 92 NAC § 51-007.07A. Thus, **corrective action is required**, and will be detailed at the end of this report.

Issue # 5

Have any of the above issues been reported on a more systemic level?

Because the initial complaint alleged some of these issues occurring with other students in the program, an anonymous survey was distributed to five other parents of students receiving special education services through age 21. Following the survey distribution, two reminder emails were sent out, providing three total emails to each respondent. Only one response was provided, and that respondent did not raise any concerns.

Based on survey responses, no systemic concerns have been raised and **no corrective action** is required.

Corrective Action

Reconvene the IEP Team

1. The District shall reconvene the IEP Team immediately to complete the following:
 - a. Conduct a comprehensive review of existing data in all areas outlined in 92 NAC § 51-006.05, including all existing data to enable the IEP Team to determine whether the Student continues to have any previously identified areas of disability and any new areas of disability and the Student's educational needs, the Student's present levels of academic achievement and related developmental needs, whether the Student continues to need special education and related services, and whether the Student needs any additions or modifications to the special education and related services to enable the Student to meet the measurable annual goals set out in the Student's IEP and to participate, as appropriate, in the general education curriculum .
 - b. Obtain consent from the parent to conduct a comprehensive educational reevaluation that addresses all areas outlined in 92 NAC § 51-006.05.
 - c. This reevaluation must include meaningful transition assessments, including obtaining input from the Student, the Parent, special education staff, and any other relevant parties who know the Student. This evaluation must thoroughly evaluate the Student's

- current skills and needs in all three areas of transition (Education/Training, Employment, Independent Living).
2. This IEP Team meeting to review existing data and plan for the reevaluation must occur within 14 days of the receipt of this letter.
 - a. The District must provide a copy of the IEP Team meeting notes and signed parent consent to NDE within 10 days of the meeting.

Evaluation and IEP Development

1. The District shall conduct a comprehensive psychoeducational reevaluation in all areas of suspected disability
 - a. The District must complete the evaluation within 45-school days, which may not exceed 60-calendar days, of obtaining parent consent.
 - b. The District must provide the completed MDT report within 10 days of the MDT meeting.
2. Once an appropriate reevaluation (both psychoeducational and transition) is completed, the District must convene the IEP Team to develop an appropriate IEP that addresses all the Student's needs that are related to the Student's disability. This includes the development of appropriate present levels of academic and functional performance, transition goals, annual goals, accommodations, modifications, special education services (including transition services), related services, and supports for school personnel.
 - a. The District must provide a copy of the IEP to NDE within 10 days of the IEP Team meeting.

Compensatory Education

Based on a 180 days in a school year, and the average school day being 7 hours, the total number of hours a student is in school is about 1,260 hours. Due to services being provided for only an hour/day, the Student received approximately 180 hours or a deficit of 1,080 hours total. Due to the Parent providing private services which the District must reimburse, the total number of hours owed is halved bringing the total number of compensatory hours to **540 hours**.

1. Once such an IEP has been developed, the District must develop and share with NDE for approval a proposal for 540 hours of compensatory education to work on **both** educational and transition services for the period of February 20, 2022 through the date of this report due to lapse in appropriate IEP services:
 - a. The Student's IEP team shall convene an IEP meeting within 30 days of the updated re-evaluation to develop a mutually agreed upon

schedule to provide 540 hours of compensatory service for educational and transition services.

- b. An IEP team, including the Parent shall determine the schedule for which the 540 hours of compensatory services will be provided. If the district is unable to get the Parent to attend the IEP meeting, the district will document the attempts to contact the parent as required by 92 NAC 007.06D and hold the meeting without the parent.
 - c. The schedule for compensatory services must be provided to NDE within 10 days of the IEP meeting.
 - d. Compensatory services shall be completed by December 7, 2023 (a year from the date the complaint was filed). Student absence or refusal of the parent to make the child available shall result in a waiver of service scheduled for that day. Staff absences must be rescheduled. Any compensatory services declined or not used by date shall be deemed waived (assuming the district has made a good faith effort to timely commence and provide all compensatory services).
 - e. Service provider logs verifying completion of all compensatory services must be submitted to NDE monthly until the service is complete and all service has been verified.
2. Given that the Student will “age out” of the program this spring, it is important to note that in this case, the Student’s 22nd birthday does not relieve the District of their responsibility to provide compensatory education beyond the end of the school year.

Training

1. The District shall develop or contract for comprehensive training for all certified staff who serve on IEP teams for students who are of transition age covering the purpose of reevaluation, as well as summarizing the purpose of each required type of reevaluation data and how it is to be used to inform IEP development, service delivery, and appropriate accommodations and modifications.
 - a. The District must seek approval from NDE of the training materials two weeks prior to the training being held.
 - b. The District must conduct this training no later than April 3, 2023.
 - c. The District must provide NDE with sign in sheets or other verification of training participants no later than 10 days after the conclusion of the training.

Reimbursement

1. The District shall reimburse the Parent for services obtained during the time the District did not provide services.
 - a. The Parent will provide the District an invoice including exact amounts paid for services by the Day Program within 30 days of the date of this Investigation Report.
 - b. The District will provide reimbursement for all fees for each month indicated by the Parent.
 - c. The District will provide evidence of payment made to NDE to verify reimbursement was paid within 60 calendar days of the date of this report.

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:

Mary Lenser, Complaint Specialist
Christopher Chambers, Complaint Specialist
NDE Office of Special Education
nde.speddr@nebraska.gov