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[REDACTED]

[REDACTED], Superintendent

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED], NE [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]NE [REDACTED]

Dear Mr. [REDACTED] and Ms. [REDACTED]:

On May 1, 2023, the Nebraska Department of Education, Office of Special Education (OSE) received a letter of complaint filed on behalf of [REDACTED], a student enrolled at [REDACTED], by [REDACTED], parent of [REDACTED]. The complaint included several allegations. Based on the allegations, OSE identified the following issues to be investigated:

1. The School has not allowed the Student to bring food from home and is not providing the Student with the water being provided by the Parent.
2. The Student is having seizures at school that are not being monitored, and the School is not informing the Parent when one occurs.
3. The Parent has requested that the School provide a specialist to support the Student, and the Parent has also requested that a private ABA therapist be allowed to support the Student in the school.
4. In meetings, all the papers the Parent is asked to sign are in English, not Spanish.
5. The School has not explained to the Parent that the Student is on an individualized education program (IEP).

### **Complaint Resolution**

In OSE's May 9, 2023, letter to the parent and letter to the District, opening the complaint investigation, OSE indicated that one of the components of the complaint investigation requires OSE to permit the District to propose a resolution to OSE to resolve the complaint. The District has proposed a resolution to OSE to resolve the complaint and OSE has accepted that resolution. OSE Issues this written decision that addresses each allegation in the complaint and contains findings of fact and conclusions; and the reasons for OSE's final decision. OSE

will follow up on this final decision ensuring and verifying that the District completes all resolution activities within stated timelines.

### **Findings of Fact**

The Letter of Complaint OSE received on May 1, 2023, included the following facts:

- [REDACTED] is a pre-kindergarten student with severe autism.
- The District has denied the parent sending food for [REDACTED], telling her it was prohibited.
- The parent indicated District staff told her that she could not bring food because [REDACTED] is only at school for four hours.
- When the parent sends [REDACTED] to school with a water bottle, [REDACTED] comes home with the water bottle still sealed.
- Mom must feed [REDACTED] as soon as [REDACTED] gets off the bus because [REDACTED] is so hungry.
- [REDACTED] hits when [REDACTED] is frustrated and when people do not understand what [REDACTED] wants.
- [REDACTED] needs help with everything and does not do anything alone.
- The parent indicated that [REDACTED] had a tantrum at school on April 25, 2023, that staff did not know how to handle.
- The parent has a specialist provided by her health insurance who serves the student at home.
- The parent requested the specialist provided by her health insurance work with [REDACTED] in the school.
- The school denied her specialist from working with [REDACTED] in the school.
- The papers District staff give the parent to sign are in English, not in Spanish.
- The District provides a teacher's assistant to translate, not an interpreter.

In a Letter of Response from the District that OSE received on May 22, 20223, and a follow up conversation on May 26, 2023, the District stated the following:

- The student's IEP Team met on May 17, 2023. The District is allowing the parent to send food and water to school for the student.
- The District maintains staff have always provided the parent all documentation in Spanish. This is a districtwide practice.
- The District has offered to provide a behavioral therapist for the student, but the parent wants her specialist.

## Conclusions

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

*Issue #1:*

1. The District will implement the water and food monitoring and communication log as the IEP Team developed, discussed, and agreed upon at its May 17, 2023, meeting, including that GPS will provide multiple opportunities for access to water throughout the day, including a water bottle at the student's desk, at lunch, physical education, before and after recess:
  - a. The District will provide a copy of the May 17, 2023, IEP to Heather Ottoson by June 16, 2023;
  - b. The District will provide copies of the communication log referenced in the May 17, 2023, IEP to Heather Ottoson on the last day of each month from the start of the school year through April 30, 2024, to verify provision of water and food;
2. The District will permit the parent to send a sack lunch with the student every day as [REDACTED] attends kindergarten as the IEP Team developed, discussed, and agreed upon at its May 17, 2023, meeting;
3. The District will permit the parent to send additional snacks that meet the healthy snack guidelines with the student every school day as [REDACTED] attends kindergarten as the IEP Team developed, discussed, and agreed upon at its May 17, 2023, meeting;
4. The District will reconvene the student's IEP Team to discuss adding accommodations to the student's IEP for meeting his food and water needs:
  - a. By June 30, 2023, the District will reconvene the Student's IEP Team to discuss a "Plan B" for when the parent is unable to provide lunch and/or snacks to ensure the Student has something to eat that [REDACTED] is not opposed to eating;
  - b. The District will provide IEP Team meeting notes and the prior written notice (PWN) the District sends to the parent following the IEP Team meeting to Heather Ottoson by July 8, 2023;
5. To date, the District has not received medical documentation that this student has seizures. If the parent provides medical documentation that this student has seizures, the District will reconvene the student's IEP Team to consider whether there is a need for the student to have a seizure plan, whether to add any needed supplementary aids & services and supports for school personnel, and whether the school nurse needs to participate in

the student's IEP Team meeting to help support any medical plan the IEP Team deems necessary:

- a. If the District receives medical documentation that this student has seizures, the District must provide Heather Ottoson IEP Team meeting notes and the PWN the District sends to the Parent following the IEP Team meeting. If the District does not receive such medical documentation by April 30, 2024, the District must inform Heather Ottoson that it has not received such documentation;
6. During the IEP Team meeting as part of #4, the IEP Team will develop a medical communication log and a schedule upon which the District will share the medical communication log with the parent for the student's kindergarten year:
  - a. The District will provide IEP Team meeting notes and the PWN the District sends to the parent following the IEP Team meeting to Heather Ottoson by July 8, 2023;
7. GIPS will continue to consider the health needs of all students when determining if health plans or accommodations related to student health need to be developed or added to IEPs;
  - a. If District procedures already exist on this topic, the District will provide a copy of those procedures to Heather Ottoson within five calendar days of the date of this letter;
  - b. If the District needs to develop procedures on this topic, the District will provide the newly developed procedures to Heather Ottoson by August 16, 2023.

#### *Issue #2*

8. GIPS will provide an additional copy of the student's progress report and GOLD report to the parent by June 30, 2023.
  - a. The District will provide verification to Heather Ottoson that it provided these documents to the parent (June 30, 2023).
  - b. The District will provide a copy of the service logs showing provision of all special education services, related services, accommodations, modifications, and supports for school personnel stated in the Student's 11/4/22 IEP to Heather Ottoson within five calendar days of the date of this letter.
  - c. OSE will verify the provision of all items. If OSE determines all items were not provided, the District will offer the parent compensatory services for any missed services.
    - i. The District will provide OSE with the schedule for compensatory services offered to the parent. The District must provide this schedule to OSE no later than July 31, 2023.

The schedule must include the services proposed including location, duration, and service provider.

- ii. If required, the District must complete compensatory services by January 2, 2024. Student absence or refusal of the parent to make the student available shall result in a waiver of the service schedule for that day. Staff absences must be rescheduled. Any compensatory services declined or not used by January 2, 2024, shall be deemed waived (assuming the District has made a good-faith effort to timely commence and provide all compensatory services).
- iii. The District must submit service provider logs to OSE verifying the completion of all compensatory services, if required, by the last business day of each month until the service is complete, and OSE has verified provision of all services.

#### Issue #3

9. If necessary, GIPS will amend the student's May 17, 2023, IEP according to 92 NAC § 51-007.06D to document the IEP Team's agreement that the District will provide a Registered Behavior Technician (RBT) to support the student and the District staff working with the student as [REDACTED] transitions and starts kindergarten. The District is responsible for selecting providers to carry out all aspects of the student's IEP. The District will ensure that all personnel necessary to carry out the requirements of the student's IEP are appropriately and adequately prepared and trained.
10. The District will provide a copy of any IEP amendments to Heather Ottoson within five calendar days of the date of any amendment made according to this section.
  - a. The District will provide service logs of RBT services to the student or RBT supports to school personnel working with the student to Heather Ottoson the last business day of every month from August 2023 through April 2024.
11. If the parent provides written approval, the District will provide the District's RBT service logs to the parent's specialist on the last calendar day of each month beginning August 31, 2023. If the parent wishes to provide notes and documentation from the parent's specialist to the District's RBT, the District's RBT will review. On or before July 14, 2023, the District will confirm to Heather Ottoson whether the parent agreed to this record review.

#### Issue #4

12. The District will provide a copy of the student's current IEP and most recent MDT in English and Spanish to Heather Ottoson at the same time

the District provides both to the parent (expected no later than June 30, 2023).

13. The District will provide copies of all PWNs it sent to the Parent during the 2022–23 school year in English and Spanish to Heather Ottoson by June 16, 2023.
14. GIPS will provide retraining to all special education and bilingual paraprofessionals on the District's paraprofessional Code of Ethics which includes treating all stakeholders with dignity and respect at all times in all settings.
  - a. The District will provide a copy of the training to be provided to all special education and bilingual paraprofessionals on the District's paraprofessional Code of Ethics, which includes treating all stakeholders with dignity and respect at all times in all settings, to Heather Ottoson two calendar weeks prior to conducting the training.
  - b. The District will provide copies of sign in sheets or other verification of attendance and a list of all special education and bilingual paraprofessionals the District employs to Heather Ottoson within five calendar days of conducting the training.
15. GIPS will create a brief parent survey to gather parent feedback on the effectiveness of the District's interpreter services. The District will share this survey with parents who use the District's interpreter services in IEP Team meetings or MDT meetings after those meetings from the beginning of the school year through March 29, 2024.
  - a. The District will provide a copy of the parent survey that it will use to gather parent feedback on the effectiveness of the District's interpreter services to Heather Ottoson by August 15, 2023, for review.
  - b. On or before April 30, 2024, the District will provide a summary of the results of surveys submitted between the beginning of the school year and March 29, 2024, to Heather Ottoson.

#### *Issue #5*

16. GIPS will print another Spanish copy and provide to the parent on or before June 30, 2023.
  - a. The District will provide a copy of the PWN the District sent to the parent following the November 4, 2022, IEP Team meeting in English and Spanish to Heather Ottoson on or before June 16, 2023.

17. GIPS will provide retraining to all special education certified providers on providing Prior Written Notice (PWN) to the parent in all instances that 92 NAC § 51-009.05 requires.
- a. The District will provide a copy of the training it will provide to all special education certified providers on providing PWN to the parent in all instances that 92 NAC § 51-009.05 requires to Heather Ottoson two weeks prior to conducting the training, for review.
  - b. The District will provide copies of sign in sheets or other verification of attendance to Heather Ottoson and a list of all special education certified providers the District employs within five calendar days of conducting the training.

### **Decision and Rationale**

As part of the State Complaint process, 92 NAC § 51-009.11C2a allows the District the opportunity to respond to the complaint including making a proposal to OSE to resolve the complaint. Upon review of the issues within the complaint, the Nebraska Department of Education has determined the District's resolutions put forth in this letter have resolved this complaint and this complaint investigation is now considered closed. If concerns remain on these issues upon the conclusion of the revisions of the IEP, provision of the PWNs in Spanish, and provision of required trainings, a new complaint may be filed.

If you have any questions concerning the information within this letter, please contact Kelly Wojcik at 531-207-9986. As the Director of Accountability, she will be able to respond to any questions you may have. Heather Ottoson will be following up with the District to ensure the resolution activities occur as stated. The District must send documentation verifying resolution activity completion to [nde.speddr@nebraska.gov](mailto:nde.speddr@nebraska.gov).

Sincerely,



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CC: [REDACTED], Director of Special Services, [REDACTED]  
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