

COMPLAINT INVESTIGATION REPORT

Complaint Number: 23.23.20
Complaint Investigator: NDE Legal Division
Date Complaint Filed: December 20, 2023
Date of Report: REDACTED

Introduction

The complainant filed a letter of complaint (Complaint 23.24.12) with the Office of Special Education on October 3, 2023, on behalf of two students. The complainant is not the parent or guardian of the children for whom the complaint was filed. The day after the complainant submitted her letter of complaint, the Office of Special Education received another letter of complaint by a different complainant, also not a parent or guardian of the students. As part of the Office of Special Education's protocol, when multiple complaints are received with similar facts, and involve concerns against the same district on behalf of the same children, the complaints are combined into one case. The results of complaint 23.24.12 lead that complainant to file a new complaint which this report addresses. The current complaint was filed because the complainant did not feel the investigator assigned to the complaint filed on October 3, 2023 (Complaint 23.24.12), investigated all issues, allowed ample opportunity for the complainant to provide all relevant information and documents needed for the investigation, and violated the timelines required in such investigations.

Issues Investigated

1. Whether the Office of Special Education adheres to the 60-day timeline required by 34 CFR 300.152(a) and 92 NAC 51-009.11C4.
2. Whether the Office of Special Education allows the complainant to submit additional information either orally or in writing pursuant to 34 CFR 300.152(a)(2) and 92 NAC 51-009.11C3.
3. Whether the Office of Special Education makes an independent determination as to whether a public agency is violating a requirement of Part B of the Act or of this part pursuant to 34 CFR 300.152(a)(4).

Information Reviewed by Investigator

From the Complainant

- Letter of Complaint dated December 20, 2023; received by NDE December 20, 2023

From the Office of Special Education

- Letter of complaint by Complainant 1 dated October 3, 2023
- Letter of complaint by Complainant 2 dated October 4, 2023
- 23-24 Complaint Timeline (excel sheet used by the Office to calculate required complaint timelines and details of complaints filed)
- Correspondence from Students' family to the Office of Special Education dated October 24 through December 11, 2023, including submissions of evidence through ShareFile added to the OSE case file
- Correspondence from Complainant 2 to the Office of Special Education including request to withdraw the complaint and submission of evidence dated October 24 through November 16, 2023
- Correspondence from Complainant 1 to the Office of Special Education and Investigator, including submission of evidence dated October 26 through December 6, 2023
- Emails from ShareFile to the Director of Accountability dated November 9 through November 18, 2023
- Correspondence between the Investigator and the Office of Special Education dated October 9 through December 16, 2023
- Correspondence between the Special Education Director to the Director of Accountability dated October 2, 2023, through December 19, 2023
- Copies of emails from Complainant 1 and the parents to/from the District dated December 5 through December 11, 2023.
- December 17, 2023, OSE email to 23.24.12 Complainants, district, and parents of students at issue in the 23.24.12 complaint investigation report
- 23.24.12 Letters to Parties dated October 17, 2023
- 23.24.12 Withdrawal Not Accepted Letter dated November 9, 2023
- 23.24.12 Complaint with Due Process letter dated December 4, 2023
- Internal Complaint Procedures for the Office of Special Education
- Meeting between the Office of Special Education and the NDE Legal Division on December 28, 2023, to discuss the procedure applicable to the subject complaint, as governed by the OSE's Internal Complaint Procedures.

Findings of Fact

1. The Office of Special Education received two letters of complaint filed by third party complainants on behalf of two siblings attending a public school in Nebraska, which were logged into the 23-24 Complaint Timeline as Complaint 23.24.12 (Letter of complaint by Complainant 1 dated October 2, 2023; Letter of complaint by Complainant 2 dated October 4, 2023; 23-24 Complaint Timeline).

2. Per the Internal Complaint Procedures for the Office of Special Education, the complaint was logged on October 3, 2023, (Internal Complaint Procedures for the Office of Special Education dated January 21, 2021, and 23-24 Complaint Timeline).
3. A review of the Internal Complaint Procedures for the Office of Special Education shows that those procedures comply with the federal mandates of the IDEA in processing internal complaints (Internal Complaint Procedures for the Office of Special Education dated January 21, 2021).
4. On October 17, 2023, the Office of Special Education mailed the district, the parents of the students referenced in the Complaints, and both Complainants letters detailing (Letter to parties dated October 17, 2023):
 - a. Allegations included in the letters of complaint;
 - b. Allegations that do not fall under the jurisdiction of the Individuals with Disabilities Education Act (IDEA) or 92 NAC 51 (Rule 51);
 - c. The entities that did have jurisdiction of the allegations not under the jurisdiction of the Individuals with Disabilities Education Act (IDEA) or 92 NAC 51 (Rule 51);
 - d. Description of the issues that would be investigated based on the allegations substantiated with facts as required by 92 NAC 51-009.11B2;
 - e. The name and contact information of the complaint investigator assigned to conduct the investigation; and
 - f. A secure link for parties to upload documentation for the purposes of the investigation within 14 calendar days, which was October 31, 2023 (23-24 Complaint Timeline).
5. On October 24, 2023, one of the parents of the students involved in the investigation for 23.24.12 emailed the Office of Special Education requesting an opportunity to submit individual state complaints for the children at issue, because the listed allegations did not cover all alleged substantive and procedural violations, and requesting the two Complainants withdraw their complaints.
6. Complainant 2 sent an email to the Office of Special Education requesting to withdraw her complaint on October 24, 2023.
7. The complaint investigator called Complainant 1 via phone asking if the complainant wanted to withdraw her complaint (Phone call to Complainant 1 from Investigator, October 26, 2023)
8. The complaint investigator sent an email to the Office of Special Education stating that the investigator contacted Complainant 1 on October 26, 2023, via phone, who did not want to withdraw her portion of

- the complaint (Email from Investigator to Complainant 1 dated October 26, 2023).
9. On October 27, 2023, the Office of Special Education emailed the parent of the student involved in the 23.24.12 complaint. (Email from the Office of Special Education to the parent dated October 27, 2023) The email contained the following information:
 - a. Only 1 Complainant had requested to withdraw their complaint;
 - b. OSE did not have the authority to require complainants to withdraw their complaints; and
 - c. If the parent was displeased with the procedural context of the investigation and the request to withdraw the complaints, how to file a complaint in response to the inquiry made on October 24, 2023. (Email from the Office of Special Education to the parent dated October 27, 2023)
 10. Complainant 1 sent a request to withdraw her complaint on October 30, 2023 (Email from Complainant 1 to the Office of Special Education dated October 30, 2023).
 11. At the time that the requests to withdraw the complaint were received, the Office of Special Education had not yet received any documentation regarding the complaint from the affected parties.
 12. Since federal guidance from OSEP mandated that the Office of Special Education was required to investigate certain allegations in the complaint, the Office of Special Education could not allow the complaint to be withdrawn (cite to OSEP guidance document here).
 13. On November 9, 2023, the Office of Special Education sent a letter to the district, Complainants, and parents of the students involved in complaint 23.24.12 detailing the following:
 - a. The requests withdrawing complaint 23.24.12 were denied.
 - b. The rationale of the Office of Special Education for denying the requests to withdraw.
 - c. A date (November 17, 2023) on which documentation from the parties was needed to conduct the investigation.
 - d. The date (December 17, 2023) on which the investigation report would be mailed.
 14. Complainant 1 sent an email to the Office of Special Education concerned with the date by which information was required to be submitted for the investigation (Email from Complainant 1 to the Office of Special Education dated November 9, 2023).

15. Prior to November 9, 2023, at approximately 5:00 p.m., Complainant 1 and the parent had not submitted additional documentation via the secure link.
16. Between 4:59 pm and 6:26 pm on November 9, 2023, Complainant 1 uploaded 48 documents to the secure link provided (Emails from ShareFile to the OSE Director of Accountability dated November 9, 2023).
17. On November 10, 2023, the OSE Director of Accountability emailed the complaint investigator to inform her that documentation had been received and had been uploaded in the case file (Email from OSE to complaint investigator dated November 10, 2023).
18. Complainant 1 emailed the Office of Special Education and the investigator with concerns about why the request to withdraw was not accepted, and an accusation that she was not allowed to submit evidence (Email from Complainant 1 to OSE and Investigator dated November 9, 2023).
19. The complaint investigator emailed Complainant 1, explaining that the request to withdraw was not accepted and referred her to the letter sent on October 17, 2023, regarding the issues under investigation (Email from the complaint investigator to Complainant 1 dated November 10, 2023).
20. Between 4:34 pm and 5:03 pm on November 11, 2023, Complainant 1 uploaded 14 documents to the secure link provided (Emails from ShareFile to the Director of Accountability dated November 11, 2023).
21. The parent of the students for complaint 23.24.12 emailed three documents to the Office of Special Education and the complaint investigator on November 13, 2023 (Email from parent to OSE dated November 13, 2023).
22. The parent of the students for complaint 23.24.12 uploaded a Due Process petition and an additional document to the secure link on November 14, 2023 (Emails from ShareFile to the Director of Accountability dated November 14, 2023).
23. Between 10:28 am and 12:03 pm on November 15, 2023, the parent of the students for complaint 23.24.12 uploaded 35 documents to the secure link provided (Emails from ShareFile to the Director of Accountability dated November 15, 2023).
24. Between 7:55 pm and 9:58 pm on November 16, 2023, Complainant 2 uploaded 90 documents to the secure link provided (Emails from ShareFile to the Director of Accountability dated November 16, 2023).
25. On November 17, 2023, Complainant 1 sent an email to the Office of Special Education and complaint investigator with 16 attachments as well

- as a concern that the link to upload the documents was not working (Email from Complainant 1 to OSE dated November 17, 2023).
26. The OSE Special Education Director emailed Complainant 1 that the 16 documents were received and uploaded to the case file (Email from the Director to Complainant 1 dated November 17, 2023).
 27. Through the course of the day of November 17, 2023, there was a total of 15 emails from the parent regarding the secure link not working. Both Complainant 1 and the parent of the children involved in complaint 22.23.12 stated their anger about the issue with the link to upload documentation not working correctly; they stated that this issue prevented them from uploading additional documentation (Emails from parent and Complainant 1 to OSE dated November 17, 2023).
 28. The Director of Accountability was able to fix the secure link; the new, functional link was sent to the parties the afternoon of November 17, 2023 (Email from OSE to parent and complainants dated November 17, 2023).
 29. The parent of the children involved in complaint 23.24.12 uploaded 77 documents between 12:41 pm and 1:05 pm on November 18, 2023 (Emails from ShareFile to the Director of Accountability dated November 18, 2023).
 30. On November 28, 2023, the complaint investigator emailed both complainants and the parent that documents were received and were being reviewed. She informed the parents that if the investigator had questions, she would be in contact with the parent (Email to complainants and parent from the investigator dated November 28, 2023).
 31. Complainant 1 emailed the complaint investigator on November 28, 2023, with concerns that an interview would not be scheduled with Complainant 1 (Email from Complainant 1 to Investigator dated November 28, 2023).
 32. The investigator emailed Complainant 1 that same date, explaining why Complainant 1 would not be interviewed, and sharing that all documentation relevant to the issues would be considered in the investigation (Email to Complainant 1 from Investigator dated November 28, 2023).
 33. On December 1, 2023, the Special Education Director emailed the Director of Accountability confirmation that the parents' Due Process petition was accepted (Email from the Special Education Director to the Director of Accountability dated December 1, 2023).
 34. On December 4, 2023, the Director of Accountability sent a letter to all parties detailing the issues that were set aside as a result of the Due Process petition filing, and delineating what issues contained in the

complaint remained, and would continue to be investigated (23.24.12 Complaint with Due Process Letter dated December 4, 2023).

35. December 6, 2023, through December 14, 2023, the Office of Special Education received seven emails from the parties to the District regarding concerns with a recent IEP for one of the students at issue; (Emails from parents and Complainant 1 to OSE and the investigator dated December 5, 2023 through December 11, 2023).
36. During the investigative process, the complaint investigator did not interview the Complainant.
37. The complaint investigator did not interview other persons in the child's life whom the Complainant stated may have relevant information.
38. On December 12, 2023, the complaint investigator provided a copy of the draft investigation report to the OSE Director of Accountability (Email from Investigator to OSE dated December 12, 2023).
39. On December 17, 2023, the 23.24.12 Final Complaint Investigation Report was emailed to the parties.
40. On December 20, 2023, the subject complaint was filed and received by the OSE.
41. On December 28, 2023, personnel from the OSE and the NDE Legal Division met to discuss the procedure applicable to the subject complaint, as governed by the OSE's Internal Complaint Procedures.

Issue # 1

Whether the Office of Special Education adheres to the 60-day timeline required by 34 CFR §300.152(a) and 92 NAC 51-009.11C4.

34 CFR §300.152(a) states:

300.152 Minimum State Complaint Procedures

- (a) *Time limit; minimum procedures.* Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under §300.153.

92 NAC 51-009.11C4 states:

009.11C4 *Within sixty (60) calendar days of receipt of a signed written complaint, the Department of Education Office of Special Education will review all relevant information and provide written notification of findings of facts*

and conclusions and the basis for such findings to all parties involved.

Allegations/Parents' Position

Complainant 1 was denied the opportunity to withdraw her complaint and was led to believe the complaint was closed when she submitted her request to withdraw the complaint (Letter of complaint received December 20, 2023).

Office of Special Education Response

The Complainant's allegation is accurate. The Office of Special Education denied her request to withdraw the complaint that was filed on October 3, 2023 (23.24.12 Withdrawal Not Accepted Letter dated November 9, 2023). The complaint provided credible allegations of a district's noncompliance with federal mandates, and the issues had not been resolved by the parties. Guidance from the Office of Special Education Programs (OSEP) requires states to adequately address credible allegations of noncompliance through the OSEP Guidance on State General Supervision Responsibilities under Parts B and C of the IDEA released on July 24, 2023 (OSEP Q&A 23.01). (Meeting between the Office of Special Education and the NDE Legal Division on December 28, 2023) This specific guidance from OSEP mandates that if a credible allegation is made claiming noncompliance, an investigation must ensue. Since Complainant's complaint filed on October 3, 2023, met this threshold standard, the Office of Special Education was required to investigate certain allegations contained in the complaint. In order to comply with this controlling federal guidance, the Office of Special Education was not permitted to allow Complainant to withdraw her complaint; rather, the Office of Special Education had a duty under the IDEA to investigate the complainant's allegations that were within the Office of Special Education's jurisdiction.

Investigative Findings

The Office of Special Education received two complaints filed on behalf of two siblings attending one of the public schools within the state (**Finding of Fact 1**). The complaint was logged, as required by the OSE procedures (Findings of Fact 2 and 3). The OSE sent a letter to the complainants, the parents of the students, and the district, detailing the complaint investigation; such correspondence included a secure link to provide evidence to the investigator with a timeline for when evidence was due (**Finding of Fact 4**). One of the students' parents requested the OSE withdraw the Complainants' complaints on October 24, 2023 (**Finding of Fact 6**). The OSE responded to the parents that OSE did not have the authority to require complainants to withdraw their complaints (**Finding of Fact 8**). Complainant 1 also provided a request to withdraw her complaint on the day before documentation was due to the investigator (**Findings of Fact 4 and**

10). At the time that the requests to withdraw the complaint were received, the Office of Special Education had not yet received any documentation regarding the complaint from the affected parties (Finding of Fact 10). Since federal guidance from OSEP mandated that the Office of Special Education was required to investigate certain allegations in the complaint, the Office of Special Education could not allow the complaint to be withdrawn (Finding of Fact 11). Since the Office of Special Education could not allow the complaint's withdrawal and had received no documentation from the parties about the complaint, the Office of Special Education provided additional time for the investigation to be completed to comply with OSEP's Guidance (23.24.12 Withdrawal Not Accepted Letter dated November 9, 2023).

Summary and Conclusions

On November 9, 2023, the OSE, in a written letter to the complainants, delineated and described that given the procedural posture of this case, and OSEP Guidance requiring investigation of credible allegations of noncompliance, the OSE would not accept the requests to withdraw the complaint. This determination was made after the Complainant attempted to withdraw their complaint. The OSE requested the Complainant continue to provide requested documents to aid in the investigation. Thus, the OSE issued a letter stating an extension of time outside of the 60-day deadline for the report to be filed was in effect; this allowed the Complainant and the parent to submit voluminous amounts of documentation for the investigator's review and consideration. Due to this extension of time for Complainant and the parent to provide documentation, as indicated in OSE's letter of November 9, 2023, the new deadline for completion of the report was thus amended to December 17, 2023. Furthermore, the deadline for additional documentation submissions was also amended to November 17, 2023. Given the controlling federal guidance and the OSE's responsibilities under the IDEA, this unique circumstance may be aptly labeled as "exceptional". Thus, an extension of the regulatory timeline to complete the investigation was appropriately permitted under these specific facts and did not prejudice the Complainant or the parent. Rather, the OSE fulfilled its federally mandated responsibility to investigate credible allegations of noncompliance as explained in OSEP's Guidance referenced above.

Based on the above consideration of the Findings of Fact and application of the controlling law and regulations, the Office of Special Education implemented the requirements of 34 CFR 300.152(a) and 92 NAC 51-009.11C4 and **no corrective action** is required.

Issue # 2

Whether the Office of Special Education allows the complainant to submit additional information either orally or in writing pursuant to 34 CFR 300.152(a)(2) and 92 NAC 51-009.11C3.

34 CFR 300.152(a)(2) states, "Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint".

92 NAC 51-009.11C3 states:

009.11C3 *Office of Special Education officials will investigate each complaint received from an individual or organization (including an individual or organization from another state) to determine whether there has been a failure to comply with the Chapter and may require further written or oral submission of information by all parties and may conduct an independent on-site investigation if necessary. The complainant will have the opportunity to submit additional information either orally or in writing, about the allegation.*

Allegations/Parent Position

Technical issues on the state's end prevented the Complainant from submitting all existing and relevant evidence, and the investigator did not interview the Complainant. The investigator did not contact numerous individuals in the child's/children's lives who would have information relevant to the case. (Letter of Complaint dated December 20, 2023, referencing two students at issue in this case)

Office of Special Education Response

ShareFile is a software product developed by an outside vendor that the OSE uses to allow complainants, parents, districts, etc. to securely upload information and documentation relevant to a specific complaint; it ensures that all data is maintained in a confidential, secure platform. Although there were changes to ShareFile that caused the system to temporarily not accept documentation, the issue was corrected promptly, and all parties were provided additional time to submit documentation. All parties provided multiple documents for the investigator's consideration. As described within the OSE's Internal Complaint

Procedures, investigators will not interview the parties unless: (1) the information needed for the investigation cannot be found within the documentation provided; or, (2) there is a discrepancy between documents provided by the parties. (Discussion between the Office of Special Education and NDE the Legal Division on December 28, 2023)

Investigative Findings

When the complaint was filed, the parties had until October 31, 2023, to submit documentation; however, no documentation was provided by the Complainants or parents until November 11, 2023 (Findings of Fact 2, 14-24). The OSE Director of Accountability provided a secure link for the Complainants and parents to upload additional documents for use in the investigation by the contracted state complaint investigator (Findings of Fact 2, 9, 12, and 13). Specifically, the OSE provided the 14 calendar days during which the Complainants and parents could submit information as provided in 92 NAC 51-009.11C1, or up to and including October 31, 2023. (Findings of Fact 2, 9, 12, and 13). OSE provided a clear deadline by which pertinent documentation was to be submitted; an extension of an additional day was also provided once Complainant 1 and the parent alerted the OSE to technical difficulties with the ShareFile secure link, and OSE identified and resolved those issues (Finding of Fact 22). In sum, over 283 pieces of documentation were uploaded via the ShareFile secure link for the complaint investigator's review. Any technical issue which did occur was ameliorated when the OSE provided extra time for the submission of documentation to account for that error. Thus, the technological challenge did not prejudice the Complainant.

The Complainant also alleges as error that the complaint investigator did not interview the Complainant, and claims that the complaint investigator also failed to interview numerous persons in the children's lives who had relevant information to help resolve the complaint (Findings of Fact 29, 30, 38, and 39). The Complainant shared with the complaint investigator her desire to be interviewed as part of the investigative process; the complaint investigator replied that if she needed additional information from the Complainant, the complaint investigator would contact her at that time (Findings of Fact 29, 30, 38, and 39). As noted above, over 283 of documents and other information were uploaded for the complaint investigator to review and consider as she investigated the case. It is not a per se rule in the course of every investigation that the person who filed the complaint must be interviewed. Each case is unique and has different facets to consider. In this particular case, the investigator was provided with voluminous amounts of data with which to arrive at her ultimate conclusions. No error is found in the omission of an interview with

the complainant in this case, where the investigator was provided with more than a plethora of data to review in the course of her investigation. Similarly, the complaint investigator's failure to contact and interview others in the children's lives who may have had relevant information about the complaint is not error in this specific set of circumstances. Here, the complaint investigator was provided with all of the germane documentation necessary to resolve this case by the parties and parents via a secure link. No error is found in the complaint investigator's decision not to interview others in the course of the investigation either.

Summary and Conclusions

34 CFR 300.152(a)(2) provides that OSE must implement certain requirements in investigations, specifically, "give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint". Here, the OSE's Internal Complaint Procedures provide ample opportunity for complainants to submit additional documentation regarding allegations contained in their complaints. Moreover, in this case, additional time beyond the minimum required in the OSE's Internal Complaint Procedures was provided to Complainant 1 and the parent to submit documentation several times: (1) after the requests to withdraw the complaint were denied, a unique procedural posture in this case; and, (2) when a technological issue occurred in the secure system in which Complainant 1 and the parent uploaded documents to aid in the investigation of this case. Complainant 1 and the parent clearly took advantage of this enhanced and expanded time frame in which to submit documentation, as they submitted a total of over 283 documents in support of their position for the complaint investigator to review in making her determination. The OSE has implemented the requisite opportunity for complainants to submit additional information as mandated by 34 CFR 300.152(a)(2), so no error is found.

Additionally, 92 NAC 51.11C3 states that specific procedures must be followed in the course of an investigation: (a) each complaint must be investigated; (b) additional written or oral submission of information from the parties may be required; (c) an independent on-site investigation may be conducted, if deemed necessary; and, (d) the complainant will have an opportunity to submit either oral or in writing, additional information about the allegations made in the complaint. In this case, as discussed above, the OSE complied with the procedural mandates applicable to this situation: the complaint was investigated by a specially-trained complaint investigator; and, the complainant had ample opportunity to submit additional written documentation. Thus, the

OSE complied with the procedural requirements contained in 92 NAC 51.11C3 in this case. No error exists on this basis.

The investigator and the Office of Special Education allowed for the submission of additional documents after a technological issue occurred, as well as after requests to withdraw the complaint were denied. The complaint investigator had the opportunity to review at least 283 documents, and based on her analysis, chose not to interview the Complainant, which was not an error in this specific case. Similarly, the complaint investigator chose not to interview other persons in the child's life to gather additional data; given the copious amount of documentation submitted, it was not error for the complaint investigator to choose not to interview these additional persons. Thus, the OSE adhered to all applicable federal guidelines and state requirements regarding document submission, as well as which persons would be interviewed in the course of the investigation.

Based on the information reviewed, the facts of this specific case, and the applicable federal and state mandates noted above, the Office of Special Education implemented the requirements of 34 CFR 300.152(a)(2) and 92 NAC 51.11C3 in the investigation of this complaint, and **no corrective action** is required.

Issue # 3

Whether the Office of Special education makes an independent determination as to whether a public agency is violating a requirement of Part B of the Act or of this part pursuant to 34 CFR 300.152(a)(4).

34 CFR 300.152(a)(4) states, "*Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part.*"

Allegations/Parent Position

The investigation for 23.24.12 inadequately addressed the concerns from the written complaint. The complaint investigator relied solely on documentation provided by the district. In addition, the complaint investigator did not review videos provided that showed the district was in violation. (Letter of Complaint dated December 20, 2023)

Office of Special Education Response

Both complaint letters that initiated the investigation of complaint 23.24.12 included allegations that are not under the jurisdiction of Rule 51 or the IDEA. The OSE is only permitted to investigate certain types of claims, and some of the allegations in the complaint fell outside of those parameters. Thus, the OSE

could not investigate certain allegations, as they are beyond the power of the OSE. The letter detailing the investigation included information about what allegations were not being investigated due to jurisdictional issues. For example, a video that was submitted in this investigation was unrelated and irrelevant to the complaints that were filed that comprise the 23.24.12 case at issue here; rather, this video was part of an allegation in a complaint filed against a different school district which was the subject of a different complaint, so it is not pertinent to this case. The letter also provided information about what entities would have jurisdiction and could investigate the allegations not covered by the 23.24.12 investigation. (Discussion between the Office of Special Education and NDE Legal Division on December 28, 2023)

Investigative Findings

The letters of complaint dated October 2, 2023, and October 4, 2023, included multiple allegations. The letter to the parties detailing the investigation, clearly separated the allegations the OSE had the power to investigate from the other allegations that were not specific Rule 51 or IDEA concerns. That letter was mailed to the parties on October 17, 2023. In that letter, the Office of Special Education included information about what entities have jurisdiction to investigate the allegations made in the complaint that fell outside of the OSE's power from state and federal law. It was not possible for the OSE to investigate all of the allegations in the complaint because they fell outside the OSE's legal purview.

The complainant referred to videos from another district that were not the subject of the 23.24.12 investigation (Letter of Complaint dated December 20, 2023). The complainant found fault with the 23.24.12 investigation because the Investigator did not interview medical staff (Letter of Complaint dated December 20, 2023). Information that allegations of medical malpractice are not under the jurisdiction of the Office of Special Education was provided in the letter dated October 17, 2023, as noted above.

A close inspection of the complaint investigator's report and findings shows that she carefully delved into each issue that was appropriately within the power of the OSE to investigate in her 33-page report. She made specific findings regarding the credibility of the evidence she reviewed and the weight which it was given in making her conclusions (see investigative findings regarding the Notice of Meeting and the Participation in same at Pages 17-19 of the report). The report shows that the complaint investigator was unbiased in her assessment of the evidence the Complainant and the child's parents provided. For example,

From a careful review of the report that resulted from the investigation, it is clear that the complaint investigator looked closely at all pertinent data in developing her own independent conclusions about the allegations at issue. A number of the comments in the report demonstrate the time and effort the complaint investigator spent delving into the allegations and the documentation provided to support them. They also show that the complaint investigator did not rely solely on documentation that was provided by the school district; rather, she sifted through all of the documentation submitted that was germane to the questions at issue. The video that was submitted was in support of allegations that are outside the purview of the OSE, so it was properly excluded from a review of pertinent evidence. Ultimately, the complaint investigator agreed that the OSE did not violate the federally mandated investigation requirements at issue. This conclusion is well-supported in the record presented here.

Summary and Conclusions

Based on a review of the complaint investigator's detailed report addressing the Complainant's allegations, and the analysis above, the investigator made an "independent determination" that OSE did not violate the Individuals with Disabilities Education Act's substantive requirement under 34 C.F.R. 300.152(a)(4). The investigator clearly explored in detail all allegations that fall within the jurisdiction of a 92 NAC 51 Rule 51 State Complaint. After her thorough review of all relevant evidence, the complaint investigator concluded that the OSE properly investigated all allegations within its purview and met the federal investigation requirements. Her findings and ultimate conclusions are the outcome of her "independent determination" of the facts at issue and application of the controlling law to them. As a result, the Office of Special Education implemented the requirements of 34 CFR 300.152(a)(4), and **no corrective action** is required.

Notice to Office of Special Education

Having found that the district is implementing the requirements of 92 NAC 51 in the areas raised in the complaint, the complaint is closed as of the date of this letter.