

COMPLAINT INVESTIGATION REPORT

Complaint Number: 23.24.33
Complaint Investigator: REDACTED
Date Complaint Filed: April 17, 2024
Date of Report: REDACTED

Issues Investigated

1. Did REDACTED respond to parent's requests for special education actions with prior written notices during the 2023-2024 school year? [92 NAC 51-009.05]
2. Did REDACTED design the IEP to meet the child's educational needs that result from the disability? [92 NAC 51-007.07A2b]
3. Did REDACTED follow appropriate procedures when reviewing and revising the Student's annual IEP during the 2023-2024 school year? [92 NAC 51-007.01; 51-007.03A2; 51-007.07B1; 51-007.07B2; 51-007.07B6; 51-007.09C; 51-007.09D; 51-007.09E; 51-007.09F]
4. Did REDACTED obtain written parental consent specifying parental understanding and agreement for the district to access public benefits or insurance (Medicaid)? [92 NAC 51-009.09A1b]

Information Reviewed by Investigator

Additional documentation was provided and reviewed by the Investigator. The documentation listed below was used in consideration of the findings.

From the Complainant

- Letter of Complaint dated April 17, 2024, received by NDE April 17, 2024.
- Individualized Education Program (IEP) dated April 24, 2023
- Copy of envelope from District received by Parent through United Postal Service dated January 29, 2024
- Undated document signed by the Engagement Specialist regarding the April 3, 2024, incident and resultant District Grievance
- IEP dated April 19, 2024
- Prior Written Notice dated April 22, 2024.
- Undated Affidavit in response to district April 22, 2024, Prior Written Notice
- Parent on behalf of Student v. District and School, Amended April 22, 2024, at 12:21 p.m.

From the School District

- Letter of Response dated May 16, 2024; received by NDE May 16, 2024.

- Notice of Review of Existing Evaluation Data and Parental Right to Request Additional Assessment for Determination of Continued Eligibility for Special Education Services, dated April 24, 2023,
- Individualized Education Program (IEP) dated April 24, 2023,
- Prior Written Notice dated April 5, 2024.
- IEP Amendment dated April 6, 2024.
- Notice of Meeting dated April 8, 2024.
- Notice of Meeting dated April 13, 2024.
- Consent not granted for SAT Screening, dated April 19, 2024, at 12:38 p.m.
- Corrected signature page dated April 19, 2024, refusing consent to access Medicaid funding.
- Prior Written Notice dated April 19, 2024.
- IEP dated April 19, 2024.
- Prior Written Notice dated April 22, 2024.
- Progress Report dated October 6, 2023.
- Progress Report dated December 22, 2023.
- Progress Report dated March 8, 2024.
- Progress Report dated May 22, 2024.
- Student Services Contact Log for School dated August 7, 2023, at 8:11 a.m. through May 8, 2024, at 7:59 a.m.
- Student Services Contact Log dated April 19, 2024, at 9:12 a.m.
- Occupational Therapist Student Services Log dated between August 22, 2023, and April 30, 2024.
- Speech Therapist Student Services Log dated between October 18, 2023, and May 14, 2024.
- Special Education Paperwork Checklist for Student mailed to Parent January 16, 2024.
- Special Education Paperwork Checklist for Student emailed to parent(s) April 19, 2024.
- Special Education Paperwork Checklist for Student provided to parent(s) on April 5, 2024.
- Phone message from Mother to School dated April 3, 2024, emailing the phone message to Principal and Engagement Specialist.
- Walk-in message from Mother to Engagement Specialist, dated April 4, 2024, emailing the message to Principal and Engagement Specialist.
- Phone message from Mother to School dated April 22, 2024, emailing the message to Principal and Engagement Specialist.
- Email from Third Grade Resource teacher to Mother, dated May 5, 2023, at 4:15 p.m.

- Email among the Principal, Director of Special Education, and Local Education Representative, dated between May 6, 2024, at 10:24 a.m. and 3:16 p.m.
- Email from Director of Special Education to Investigator dated May 29, 2024, at 12:49 p.m.
- Email, from Director of Special Education to Investigator dated May 30, 2024, at 10:48 a.m.
- Email from Director of Special Education to Investigator dated June 3, 2024, at 2:24 p.m.

Introduction

This report is in response to a complaint filed with the Nebraska Department of Education (NDE) on behalf of a nine-year-old, third-grade Student who had received special education services since November 2016. The Student is eligible for special education and related services under the category of Autism. The Student receives instruction in the Alternate Curriculum Program which uses the Nebraska Alternate Standards with Extended Indicators for Students with Significant Disabilities.

The Parent completed paperwork to file a lawsuit against the District for an incident occurring on April 3, 2024. This document is included in the Parent evidence as it was submitted as outlining the complaint. The State Director NDE Office of Special Education spoke with the Parent to distinguish between the Child Complaint Process and filing a lawsuit and the Parent wished to continue the Child Complaint. Documentation not considered nor reported in this report shows the Parent clarifying the process of the purpose of the Child Complaint Investigation.

The Parent responded to the District's offer to mediate the issues addressed by this complaint, but the Investigator was not able to reach the Parent to determine if the Parent wished to extend the timeline for the investigation to allow mediation. The Investigator was not able to consistently communicate with the Parent. The Investigator's communication log showed phone and email on May 2 (email exchange), May 4 (email exchange), May 26 (phone message), May 29 (phone, spoke 1 time, phone message twice), May 30 (phone message), May 31 (email), and June 1, 2024 (phone message).

Findings of Fact

1. The Student is a nine-year-old, third grader who has received special education services since November 2016 (District Letter of Response dated May 16, 2024).

2. The Student is eligible for special education and related services as a child with autism (IEP dated April 19, 2024).
3. The Notice of Review of Existing Evaluation Data and Parental Right to Request Additional Assessment for Determination of Continued Eligibility for Special Education Services is dated April 24, 2023, and indicates that the evaluation plan included existing evaluation data, observation by teachers and related service providers and daily data collection on academic and personal management/behavior objectives.
4. The *Present Levels of Academic Achievement and Functional Performance* section of the IEP dated April 24, 2023, documents evaluation in reading, writing, math, personal management, communication, occupational therapy from classroom observation, and data collection. Concerns of parents and IEP team members are recorded, and the IEP goals are consistent with the present levels and identified needs. The special education and related services of speech/Language Therapy and Occupational Therapy are consistent with the present levels, goals, and identified needs. The signature page of the meeting participants documented the parent participating in the IEP development and all IEP team members were present.
5. The signature page of the IEP dated April 24, 2023, is checked for "I give CONSENT to the public school district named herein to access Medicaid funding on behalf of my child (named above" and understand that my refusal will not affect the district's obligation to provide my child a Free Appropriate Public Education (FAPE) at no cost". The signature of the parent is typed and dated as April 24, 2023.
6. The Parent submitted a copy of an envelope from the District to the Parent with a postmark of January 29, 2024.
7. The District Response dated May 16, 2024, stated, "[Parent] provided verbal consent at the 4/24/2023 IEP meeting [Parent] did not give consent at the 4/19/2024 meeting and therefore the District has not utilized [Student]s student ID to receive any Medicaid reimbursement. Although the Case Manager made a mistake including [Parent's name on the Medicaid line, as soon as [Parent] notified us of her concern, consent was changed to no and the signature page was corrected."
8. The Student Services Contact Log documents that the school sent out the "005 Day Attendance Letter" on January 19, 2024, at 11:17 through U.S. Mail.
9. The Parent Contact Log documents that the parent called the school on April 3, 2024, via telephone to report an incident at the school and

requested 1:1 supervision with the Student. It is further documented that a parent meeting was set up at 7:45 a.m. on April 5, 2024.

10. The Student Services Contact Log for the School recorded that the parent called the School Psychologist on April 5, 2024, at 8:34 a.m. and "Spoke to mom, as she was wondering about updated assessments. Noted that she would like a school transfer and [Student] will not be back to School." The same log recorded two additional calls from the School Psychologist to the Mother on April 5, 2024, at 8:53 p.m. to verify the email address and a second call on April 9, 2024, at 10:17 per a meeting, but the Parent did not answer.
11. The Prior Written Notice dated April 5, 2024, documented that the Student will have an adult in all school settings and that a referral to the Behavior Consultation and Coaching Team (BCCT) team will be made for additional behavioral support. The PWN recorded in the *Explanation why the district proposed or refused to take this action* as "[Student] had an incident in school [incident description] and mom expressed concerns with this and requested additional support." Additionally, the section, Description of options the IEP team considered and the reasons why those options were rejected as "[Student's] mother brought up 24/7 supervision and 1:1 support, the team clarified that [Student] will be with an adult throughout [Student's] day but that does not mean someone will be sitting next to [Student] 100% of the time."
12. An email dated April 6, 2024, at 3:16 p.m. from the principal to the Director of Special Education and Local Education Agency Representative documented that the School Psychologist called to ask about conducting the Student's three-year re-evaluation.
13. The *Present Levels of Academic Achievement and Functional Performance* section of the IEP dated April 19, 2024, documents evaluation with the annual goals, occupational therapy, and speech based on progress reports and data collection. Concerns of parents and IEP team members are recorded, and the IEP goals are consistent with the present levels and identified needs. A behavioral assessment intervention plan was added to address two problem behaviors with antecedent, intervention, and consequences based on assessment to determine the function of the behavior. The special education and related services of Speech/Language Therapy, Assistive Technology, and Occupational Therapy are consistent with the present levels, goals, and identified needs. The signature page of the IEP dated April 19, 2024, documents that all necessary IEP team members including the Parent signed for participation.

14. The Prior Written Notice dated April 19, 2024, documented that the Student's annual IEP was updated to add a Behavior Intervention Plan to include proximity to an adult and/or adult supervision. Additionally, Assistive Technology was added as a related service.
15. The IEP consent page for accessing Medicaid reimbursement is marked "I CONSENT to the public school district named herein to access Medicaid funding on behalf of my child (named above) and understand that I may withdraw this consent at any time upon written notice to the public school district. The Parent signed via Teams, and it is dated April 19, 2024.
16. The Student Services Contact Log documents that the Special Education Teacher sent out the final copy of the IEP on April 19, 2024, at 9:12 a.m.
17. The IEP consent page with handwritten, "Corrected signature page" for accessing Medicaid reimbursement is marked "I REFUSE to give consent to the public school district named herein to access Medicaid funding on behalf of my child (named above) and understand that my refusal will not affect the district's obligation to provide my child a Free Appropriate Public Education (FAPE) at no cost." The Parent signed via Teams, and it is dated April 19, 2024.
18. The student record for April 19, 2024, at 12:38 p.m. shows that the District does not have consent to receive Medicaid reimbursement for the Student's eligible services.
19. The Prior Written Notice dated April 22, 2024, documented the refusal of the Parent's request to update the draft IEP with notes not discussed at the IEP meeting or statements previously addressed. In the *options considered and reasons why those options were rejected* section it was written that the Parent requested a safety plan be added prior to signing consent, however, that was rejected due to not previously being discussed and the "school team feels that the safety concerns have been addressed by the BIP including that unsafe items are locked in a cabinet and clarifying on the educational needs page that [Student] will have proximity to an adult with supervision throughout the school day". As well, "[Parent] asks why we cannot add the language of supervised 1 on 1 the entire time [Student] is at school". The PWN recorded that this was not discussed at the annual IEP meeting on 4/19/2024 with team members present. "However, language to clarify that [Student] will have proximity to an adult or be with an adult in school spaces was added into the amendment on 4/5/2024 and is also included in the most recent IEP written for 4/19/2024."

20. The District Response dated May 16, 2024, stated, "An IEP was provided to [Parent] at the April 24, 2023, IEP meeting, however, that date was not documented in our documentation system."
21. The Director of Special Education wrote in an email to the Investigator on May 29, 2024, at 12:49 p.m. that "The District does not have any documentation that an IEP meeting was requested. The school staff do not recall an IEP meeting being requested." In response to the Investigator's question, "Were any other PWNS written during the 2023-2024 school year? The parent mentions a request for an IEP change in January 2024."
22. The Director of Special Education wrote in an email to the Investigator on June 3, 2024, at 2:24 p.m. that "[teacher] was a second-grade teacher at [second grade] school last year."

Issue # 1

Did REDACTED respond to Parent's requests for special education actions with prior written notices during the 2023-2024 school year? [92 NAC 51-009.05]

92 NAC 51-009.05 states:

009.05 *Prior Written Notice*

009.05A *Prior written notice shall be given to the parents of a child with a disability a reasonable time before a school district or approved cooperative:*

009.05A1 *Proposes to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education; or*

009.05A2 *Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.*

009.05B *Such prior written notice shall include:*

009.05B1 *A description of the action proposed or refused by the school district or approved cooperative;*

- 009.05B2 *An explanation of why the school district or approved cooperative proposes or refuses to take the action;*
- 009.05B3 *A description of other options the IEP team considered and the reasons why those options were rejected;*
- 009.05B4 *A description of each evaluation procedure, assessment, record, or report the school district or approved cooperative uses as a basis for the proposal or refusal;*
- 009.05B5 *A description of any other factors which are relevant to the school district's or approved cooperative's proposal or refusal;*
- 009.05B6 *A statement that the parents of a child with a disability have protection under the procedural safeguards of this Chapter and, if this notice is not an initial referral for evaluation, the means by which a copy or description of the procedural safeguards can be obtained; and*
- 009.05B7 *Sources for parents to contact to obtain assistance in understanding the provisions of this Chapter.*

Allegations/Parent Position

According to the letter of complaint dated April 17, 2024, the Parent alleged that on January 29, 2024, the district sent a copy of an IEP to the Parent through the US mail. The Parent alleged she contacted both the school district and elementary school stating that the IEP was incorrect with the team members and accommodations and requested it be updated. She also alleged that this IEP listed an April 24, 2023, evaluation which the Parent stated did not happen. The Parent stated the "request was declined as the representative stated that the Individualized Education Plan is accurate and only needs to be updated every three years." After an incident on April 3, 2024, the Parent attempted to create a grievance with the district and again requested increased adult

supervision. At that point, she stated that while the IEP was finally amended to increase adult supervision after the request had been neglected and the incident on April 3, 2024, occurred.

District Response

The District responded in their response dated May 16, 2024, that they provided three Prior Written Notices (PWNs) dated April 5, 2024, April 19, 2023, and April 22, 2024, in response to Parent requests for special education actions. They dispute that the Parent requested any special education action until the incident on April 3, 2024.

Investigative Findings

According to Finding of Fact 6 a document was sent from the district to the Parent on January 29, 2024, through U.S. postage. The finding of Fact 8 showed that the Student Services Contact Log recorded that the school sent out the "005 Day Attendance Letter" on January 19, 2024, at 11:17 through U.S. Mail. The finding of Fact 4 showed that the Parent was recorded as an attendee and participant in the development of the April 24, 2023, IEP. The Director of Special Education stated in an email to the Investigator on May 29, 2024, that there is no record that the Parent requested an IEP meeting until April 3, 2024 (Finding of Fact 21). The finding of Fact 9 documented that the Parent requested an IEP meeting following the April 3, 2024, incident. Three Prior Written Notices were issued following the April 3, 2024, incident. The first Prior Written Notice was issued consenting to increased adult supervision in response to the Parent calling the school and coming to the school from the incident (Finding of Fact 11). The second Prior Written Notice was issued following the IEP team meeting (Finding of Fact 14). This Prior Written Notice consented to add a behavior intervention Plan including adult supervision. The final Prior Written Notice following April 3, 2024, was a refusal of a request by the Parent to make additional changes to the IEP that were not discussed following the IEP meeting (Finding of Fact 19).

Summary and Conclusions

The Parent consistently alleged that she requested IEP meetings after receiving an IEP on January 29, 2024. While the Parent provided a copy of an envelope postmarked January 29, 2024, the Investigator was not able to verify the contents of the envelope from the District despite six phone messages and two emails. The District provided a Staff Log documenting that the Student's attendance was sent out via U.S. Mail on January 19, 2024. Without verification from the Parent the Investigator was not able to rule out that the envelope contained the attendance letter.

The Prior Written Notices created after the April 3, 2024, incident were consistent with the IEP documentation decisions. The Prior Written Notices were issued in a timely manner and consent was sought as appropriate.

Based on a phone conversation and email exchanges with the Director of Special Education and, a review of the Prior Written Notices and timelines the District implemented the requirements of 92 NAC 51-009.05, and **no corrective action** is required.

Issue # 2

Did REDACTED design the IEP to meet the child's educational needs that result from the disability? [92 NAC 51-007.07A2b]

92 NAC 51-007.07 states:

007.07 *IEP Development*

007.07A *The IEP shall include:*

007.07A2 *A statement of measurable annual goals, including academic and functional goals, designed to:*

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

Allegations/Parent Position

According to the letter of complaint dated April 17, 2024, and Affidavit sent following the April 22, 2024, Prior Written Notice the Parent alleged that the IEP does not include one-to-one supervision during the school day and that the Student's IEP is not appropriate to the Student's diagnosis of Autism and developmental delays who is nonverbal, speaking with a communication device. As a result of the Student's IEP not being appropriate, the Student was not appropriately supervised resulting in an incident on April 3, 2024.

District Response

According to the District Response dated May 16, 2024, the goals are based on the Student's evaluation and present levels of performance. The IEP was developed by a team of individuals who know the Student and are familiar with academic progress, including the Student's Parents. In determining the Student's educational needs, the team took into consideration the Student's diagnoses, educational verification, and school performance. Further, they state that the Student's strengths are included on page 1, the Parent's concerns are

documented and included on page 2, and the academic, developmental, and functional needs of the Student are included on page 4 of the April 19, 2024, IEP. The district responded that the communication needs were considered in developing the IEP. Access to an AAC and TD Snap on the iPad is included as one accommodation for the Student are written on page 4 of the April 19, 2024, IEP, and in addition, Goals #1 and #6 are focused on communication. Considering all these factors, the team created an individualized plan to meet the Student's needs, which includes an alternate curriculum program, a smaller classroom, and a higher adult-to-student ratio to provide support in various areas.

Investigative Findings

The findings of Issue One are incorporated herein by reference. According to Finding of Fact 3 the Student's MDT dated April 24, 2023, was a review of existing data, observation, and data. The Findings of Fact 4 and 13 show that the IEP team members who provide services to the Student, including the Parent were those individuals who developed the IEPs dated April 24, 2023, and April 19, 2024. Findings of Facts 4 and 13 show that the goals for both IEPs during the 2023-2024 school year were derived from data collection, IEP team and Parent concerns, and evaluation data. The finding of Fact 11 documented that the IEP team met and amended the IEP to increase adult supervision based on the Parent's request. The finding of Fact 13 documented that a Behavior Intervention Plan was added to the IEP dated April 19, 2024.

Summary and Conclusions

A review of the two IEPs in effect during the 2023-2024 school year included input from the IEP team members, including the Parent, and the services, goals, and supplementary aids and supports were consistent with the current/baseline data collected, identified needs, and evaluation. Because the decisions and plan for the re-evaluation occurred more than twelve months if and how the Parent was involved in the evaluation were not investigated, however, the MDT dated April 24, 2023, was used in the IEP development, and the Mother was involved in the development of the IEP dated April 24, 2023. The Investigator spoke with the Director of Special Education and attempted to interview the Parent about this issue, but six phone messages and two emails were not answered to interview the Parent and clarify additional information from the Parent.

Based on documentation and interviews with the District, the District implemented the requirements of 92 NAC 51-007.07A2b, and **no corrective action** is required.

Issue # 3

Did REDACTED follow appropriate procedures when reviewing and revising the Student's annual IEP during the 2023-2024 school year? [92 NAC 51-007.01; 51-007.03A2; 51-007.07B1; 51-007.07B2; 51-007.07B6; 51-007.09C; 51-007.09D; 51-007.09E; 51-007.09F]

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. In order to fulfill the requirements of 92 NAC 51-007.01 for infants and toddlers, school districts or approved cooperatives shall meet the requirements of 92 NAC 52. FAPE is provided to infants and toddlers with a disability in accordance with an IFSP rather than an IEP. The requirements for contents of the IFSP apply rather than the requirements for the contents of an IEP. All other substantive rights and protections established under special education laws apply to infants and toddlers with disabilities receiving FAPE in accordance with an IFSP.*

92 NAC 51-007.03 states:

007.03 *IEP Team Participants*

007.03A *The school district or approved cooperative shall ensure and document that each IEP team includes the following:*

007.03A2 *Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)*

92 NAC 51-007.07:

007.07 *IEP Development*

007.07B *In developing, reviewing or revising each child's IEP:*

007.07B1 *The IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child.*

007.07B2 *The IEP team shall consider the results of the initial evaluation or most recent*

evaluation of the child, and the academic, developmental, and functional needs of the child

007.07B6 *The IEP team shall consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, shall consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.*

92 NAC 51-007.09:

007.09 *IEP Meeting*

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.*

007.09D *The school district or approved cooperative shall provide a copy of the IEP to parents at no cost.*

007.09E *In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the school district or approved cooperative may agree not to convene an IEP meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.*

007.09E1 *If changes are made to the child's IEP in accordance with 92 NAC 51-007.09E, the school district or approved cooperative must ensure that the child's IEP team is informed of those changes*

007.09F *Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in 92 NAC 51-007.09E of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.*

Allegations/Parent Position

According to the letter of complaint dated April 17, 2024, the Parent alleged several things. 1) after the Parent withdrew the child due to April 3, 2024, incident the District did not provide any alternative schools or programs per the Parent request; 2) the District did not amend the Student's IEP annually; 3) the District did not evaluate the Student on April 24, 2023, for services received in third grade as reflected in the Student's IEP; 4) the District did not update the Student's IEP to the correct the school of attendance; 5) the district did not provide the current IEP to the Parent; 6) the District amended the Student's IEP without Parent participation; and 7) the District did not have all IEP team members present for an IEP meeting, specifically a general education teacher.

District Response

The District responded that they followed appropriate procedures when reviewing and revising the Student's IEP and specifically: 1) the District left a phone message with the Mother to discuss how to request a transfer and sent a follow-up email with the Student Transfer Request form on April 8, 2024, to fill out as well as a list of other school options, however, this form has not been returned. 2) two IEP meetings were held on April 24, 2023, and April 19, 2024, which is not less frequently than annually; 3) the District conducted a Review of Existing Data for the April 24, 2023 MDT; 4) each of the two IEPs reflect the correct schools of attendance; 5) both the IEPs were provided to the Parent; 6) amended IEP, dated April 5, 2024 included parental permission; and 7) a regular education teacher, was present at both IEP meetings. (District Response dated May 16, 2024)

Investigative Findings

The findings of Issues One and Two are incorporated herein by reference. 1) Finding of Fact 10 records that the School Psychologist spoke to the Parent by phone on April 5, 2024, at 8:34 a.m. and the Mother requested a school transfer and stated the Student will not be back to the current elementary school. Two additional calls were placed by the school psychologist to the Mother. 2) Finding of Facts 4 and 13 document that an IEP meeting was held on April 24, 2023, and on April 19, 2024. 3) Finding of Fact 3 documents that the April 24, 2023, MDT was conducted using existing evaluation data, observations by

teachers and related service providers, and daily data collection on academic and personal management/behavior objectives (Notice of Review of Existing Evaluation Data and Parental Right to Request Additional Assessment for Determination of Continued Eligibility for Special Education Services). The finding of Fact 12 reports that the School Psychologist called to ask about conducting the Student's three-year re-evaluation in light of the recent events and parent concerns.4) The IEP dated April 24, 2023, lists Grade 2 Elementary School as the *School of Attendance*. The IEP dated April 24, 2024, lists Grade 3 Elementary School as the *School of Attendance*. 5) The evidence submitted to the Investigator documented that the Parent had a copy of the IEP dated April 24, 2023, and Finding of Fact 16 documented that the final copy of the IEP dated April 19, 2024, was emailed to the Mother on April 19, 2024, at 9:12 a.m. Additionally, Finding of Fact 20 reported that "an IEP was provided to [Parent] at April 24, 2023, IEP meeting, however that date was not documented in our documentation system.6) Finding of Fact 11 documented that the Prior Written dated April 5, 2024, included Parent participation by recording the Mother's input in the *Explanation of why the district proposed or refused to take this action*, and *Description of options the IEP team considered and the reasons why those options were rejected*. 7) Findings of Facts 4,13, and 22 showed that the second-grade teacher from the school attended the IEP meeting held on April 24, 2023, and the third-grade teacher from the school attended the IEP meeting held on April 19, 2024.

Summary and Conclusions

Based on review of the documentation and clarification of documentation with the District it is found that the District implemented the requirements of 92 NAC 51-007.01; 51- 007.03A2; 51-007.07B1; 51-007.07B2; 51-007.07B6; 51-007.09C; 51-007.09D; 51-007.09E; 51- 007.09F and **no corrective action** is required.

Issue #4

Did REDACTED obtain written parental consent specifying parental understanding and agreement for the district to access public benefits or insurance (Medicaid)?

92 NAC 51-009.09 states:

009.09 *Consent and Insurance*

009.09A *Children with Disabilities covered by Public Benefits or Insurance*

009.09A1 *Prior to accessing a child's or parent's public benefits or insurance for the first*

time, and after providing notification to the child's parents consistent with 92 NAC 51-009.09A2, school districts or approved cooperatives must obtain written, parental consent that:

009.09A1b *Specifies that the parent understands and agrees that the school district or approved cooperative may access the parent's or child's public benefits or insurance to pay for services under this Chapter.*

Allegations/Parent Position

According to the letter of complaint dated April 17, 2024, "the signature provided on the April 24, 2023, IEP was not from the parent." The Parent explained in the letter of complaint that is why she requested to amend the IEP in January 2024.

District Response

The district responded that the Parent provided verbal consent at the April 24, 2023, IEP meeting (IEP dated April 24, 2023) for the District to request Medicaid reimbursement for services the Student received, however at the April 19, 2024, IEP meeting the Parent refused consent during the meeting. The Student's Case Manager initially made a mistake in including the Parent's name on the Medicaid line, and as soon as the Parent notified the District of her concern, consent was changed to "no" and the signature page was corrected. (District Response dated May 16, 2024)

Investigative Findings

The findings of Issues One, Two, and Three are incorporated herein by reference. According to Finding of Fact 5 the signature page of the IEP dated April 24, 2023, includes the Parent's typed name and typed date of April 24, 2023, for providing consent to access Medicaid funding. According to Finding of Fact 15 the signature page of the IEP dated April 19, 2024, includes the typed Parent's name and date for providing consent to access Medicaid funding. According to Finding of Fact 17 the *corrected* signature page of the IEP dated April 19, 2024, is updated to refuse consent for the district to access Medicaid funding and is typed as "[Parent name] via Team" and dated April 19, 2024. The finding

of Fact 18 confirms that the District did not have consent to receive Medicaid reimbursement for eligible services on April 19, 2024. Finally, Finding of Fact 7 summarized in the District Response dated May 16, 2024, "[Parent] provided verbal consent at the 4/24/2023 IEP meeting [Parent] did not give consent at the 4/19/2024 meeting and therefore the District has not utilized [Student]s] student ID to receive any Medicaid reimbursement. Although the Case Manager made a mistake including [Parent's name on the Medicaid line, as soon as [Parent] notified us of her concern, consent was changed to no and the signature page was corrected."

Summary and Conclusions

It is found that the Parent's name is typed and dated with Consent for the District to request Medicaid Reimbursement checked on the Prior Written Notice for April 19, 2024. The Investigator was unable to interview the Parent about this issue after leaving six phone messages and two email messages for the Parent. It was found that the District made an error with the incorrectly checking consent for April 19, 2024, and when requested by the Parent consent was withdrawn and the document was updated and marked in the system. The district demonstrated they had not requested reimbursement during the period in which the district created the error. Based on a review of the Complaint letter dated April 17, 2024, the District response dated May 16, 2024, and documentation, the District implemented the requirements of 92 NAC 51-009.09A1b, and **no corrective action** is required.

Notice to District

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.