

COMPLAINT INVESTIGATION REPORT

Complaint Number: 23.24.35
Complaint Investigator: REDACTED
Date Complaint Filed: April 19, 2024
Date of Report: REDACTED

Introduction

The Student is a four-year-old child who was evaluated for special education at parental request at three years of age due to concerns with language development and atypical behaviors. At that time, the evaluation concluded that the Student met the criteria for autism verification with speech-language as a related service, with needs in pre-academic skills, communication, and language, following routines and completing tasks, and play and socialization with peers and adults. The Student's IEP stated that the Student would receive services (450 minutes, 5 days) in an early childhood self-contained classroom until July 31, 2023, and beginning in August 2023, the Student would receive services in the general education classroom with early childhood resource time (60 minutes, 1 day), with Speech-Language Therapy for 30 minutes twice weekly through the year.

Issues Investigated

1. Whether the District is providing special education and related services in accordance with the IEP (allegation 3)? [92 NAC 51-007.02]
2. Whether the District has developed an IEP for the Student including a statement of the special education and related services needed by the Student (allegation 2)? [92 NAC 51-007.07A5; 007.07A8]
3. Whether the District included in the IEP a description of how the child's progress will be measured and provided (allegation 4)? [92 NAC 51-007.07A4]
4. Whether the Student's IEP team has made placement decisions in conformity with the least restrictive environment requirements (allegation 1)? [92 NAC 51-008.01C2]
5. Whether the District has provided notice of meetings for the Student's IEP meeting (allegation 5)

Information Reviewed by Investigator

From the Complainant

- Letter of Complaint dated April 19, 2024; received by NDE April 19, 2024
- Evidence submitted with the complaint
 - Journals: 5 photos of the student in the classroom

- Text messages dated April 5, 2024, and April 16, 2024, between the Parent and the Early Childhood Special Education Teacher and Special Education Director
- A document containing a contact log that includes excerpts of or quotes the following:
- Email from Parent to the Principal dated December 8, 2023
 - Excerpts from emails from Parent to the Principal dated December 15, 2023; December 21, 2023; March 3, 2023, March 20, 2023
 - Reply (undated) from the Principal to the Parent
 - Voicemail transcriptions from the Principal to the Parent dated April 16, 2024, and April 17, 2024
 - Email to Investigator dated May 2, 2024, at 7:32 a.m.
 - An email with follow-up questions from the Investigator with the Parent's reply dated May 30, 2024
- Interview with Parent May 29, 2024

From the School District

- Letter of Response dated May 16, 2024; received by NDE May 16, 2024
- Student Evaluation Report dated December 7, 2022
- Individualized Education Program (IEP) Conference Participants with Parent signature dated March 24, 2023, via Teams
- Individualized Education Program (IEP) for the Student dated March 24, 2023
- Individualized Education Program (IEP) for the Student dated November 17, 2023, including Occupational Therapy evaluation for the student
- Individualized Education Program (IEP) Meeting Participant Signature page with Parent signature dated November 17, 2023
- Prior Written Notice for change of placement dated August 1, 2023
- Prior Written Notice for change of services dated November 17, 2023
- Student Progress Report dated October 6, 2023
- Student Progress Report dated December 21, 2023
- Student Progress Report dated March 8, 2024
- My Teaching Strategies Individual Child Report dated May 10, 2024
- Student data sheet classroom and communication with entries dated August 2023 - February 27, 2024
- Occupational Therapy Documentation, 2023-24, with entries dated December 20, 2023; January 11 and 31, 2024; February 8, 2024; March 4, 2024; and May 2, 2024; signed by the therapist on May 24, 2024
- Updated Speech Language datasheet

- Speech Language Therapy Attendance with entries dated August 2023 - March 2024
- Notice of Meeting dated March 3, 2023, for a meeting on March 24, 2023
- Notice of Meeting dated November 7, 2023, for a meeting on November 17, 2023
- Notice of Meeting dated April 17, 2024, for a meeting on May 17, 2024
- Email exchange between the Parent, Early Childhood Special Education (ECSE) Teacher, and Special Education Director beginning April 5, 2024, at 12:18 p.m. and ending April 16, 2024, at 7:24 a.m.
- An email exchange between the Parent and ECSE Teacher beginning November 7, 2023, at 8:49 a.m. and ending November 10, 2023, at 8:40 a.m.
- Email exchanges between the Parent and Principal, Special Education Director, and ECSE Teacher beginning April 16, 2024, at 3:09 p.m. and ending April 17, 2024, at 10:16 a.m.
- Student Period Attendance Detail, 2023-24
- Contact log with entries dated September 28, 2023 - April 24, 2024
- Student's Classroom Schedule (2023-24 School Year)
- Special Education Paperwork Checklist dated November 17, 2023
- Special Education Paperwork Checklist dated March 24, 2024
- Email from the Special Education Director to the Investigator dated June 1, 2024, at 10:37 a.m.
- Email from the Special Education Director to the Investigator dated June 3, 2024, at 2:31 p.m.
- Interview: ECSE Teacher, May 25, 2024
- Interview: Special Education Director, May 30, 2024

Findings of Fact

1. At the time of the complaint, the Student was a four-year-old student who attended the 2023-24 Elementary School which was the school of regular attendance (Individualized Education Program November 17, 2024). The Student's special education evaluation dated December 7, 2022, found the need for early childhood special education and speech-language-related services with a verification of autism and delayed speech and language. This evaluation also identified the Student's needs as pre-academic skills, communication, and language, following routines and completing tasks, and playing and socializing with peers and adults. The Student attended the 2022-23 elementary school in a self-contained early childhood special education classroom during the 2022-23 school year.
2. The District provided a Notice of Individualized Education Program Team Meeting to develop, review, or revise the Student's IEP dated March 3,

2023, for a meeting to be held on March 24, 2023, unsigned by Parents. This Notice stated that it had been provided by text message.

3. The Student's Individual Education Program (IEP) Conference Participants dated March 24, 2023, showed that the following people attended the IEP meeting on March 24, 2023, all via phone call: the Parent, General Educator/Local Agency Representative, Special Educator, and Speech Language Pathologist/Interpreter of Results. The Student's IEP dated March 24, 2023, section "Present Levels of Academic Achievement and Functional Performance" included updated evaluation results in communication, social-emotional, and cognitive skills; the IEP showed the Student's present level of performance to include delays in receptive and expressive language affecting the ability to communicate wants and needs, to play with others, and to complete activities in the classroom. The IEP listed specific academic, developmental, and functional needs of the Student to be addressed during the school day, along with supplementary aids and services. The two goals on the IEP dated March 24, 2023, were (1) to participate in large group activities, follow directions, and take turns; and (2) to communicate functional information, answer simple questions, and follow simple directions. This IEP (services section) required 35 hours (450 minutes 5 times per week) of Early Childhood Special Education (ECSE)" and Speech-Language therapy 30 minutes two times per week through July 31, 2023, changing on August 1, 2023, to ECSE Resource for 60 minutes one time per week but continuing Speech Language therapy for 30 minutes two times per week, with transportation provided.
4. The IEP dated March 24, 2023, stated that the Student's progress would be reported to the parents quarterly on IEP progress reports.
5. The IEP dated March 24, 2023, stated that the Student would receive zero hours in general education and 35 hours of special education not with general education peers. It also stated, "During the 2023-24 school year, [the Student's] receptive and expressive language needs and overall delays would best be met in a general education classroom with role models and adult support to be successful. [The Student] will receive resource and speech/language support."
6. When asked, the Special Education Director in an interview on May 30, 2024, reported that the placement decision to move the Student to the general education classroom with special education resources and speech-language services beginning in August 2023, at the start of the 2023-24 school year would have been discussed with the Parent in the March 24, 2023, meeting, according to the District's typical practice. In

an email dated June 3, 2024, the Special Education Director provided a statement by the child's prior Early Childhood Special Education Teacher (2022-23 school year) that summarized discussions beginning in February 2023, regarding the August 2023, change of placement to a general education setting including the following topics: the Student's progress, the Student's need for typically developing students as models, the benefits of a lesser restrictive environment for the Student, explanations of how the special education resource and related services would support the classroom teacher, the curriculum, and the classroom orientation that would occur at the 2023-24 Elementary School.

7. In an interview on May 30, 2024, the Special Education Director reported that the District's practice is to provide language-rich early childhood classroom environments for students with language and communication needs with typically developing peers as language models. Additionally, the Special Education Director reported that the typical practice of the early childhood classroom is to work on the accommodations needed by the child included in the "Student's Educational Needs" section of the IEP throughout the day in addition to when the special education resource and support teachers are present in the classroom. In an email dated June 3, 2024, the Special Education Director provided a list of accommodations that the ECSE Teacher and SLP witnessed being used in the classroom, including visual supports, single-step directions, sensory breaks, movement breaks, structured daily routine, assigned areas, social stories, access to sensory toys, cube chair during large group, fidgets as needed, and first/then schedule.
8. The District provided a classroom schedule of activities showing opportunities for circle time, choice centers/small groups/sensory breaks, toileting and handwashing, Second Step (preschool social-emotional curriculum), rest times, gross motor, and daily review. When asked about the Student's isolation in the classroom in an interview on May 24, 2024, the ECSE Teacher stated that during center time in the day, the Student was permitted to choose and engage in solo activities, and if the Student had *not* chosen a small group activity with the classroom teacher over a period of time, the classroom teacher would seek the Student out. The ECSE Teacher typically saw the Student for resource services during this time of the day, according to interviews with the ECSE Teacher and the Special Education Director.
9. The District provided a Prior Written Notice (PWN) dated August 1, 2023, to change the Student's placement (as in the Individual Education Program dated March 24, 2023, Finding of Fact 3) from Early Childhood Special

Education (ECSE) services to a General Education Preschool Classroom with Speech Language therapy and Resource services, citing the Student's progress and need to be in a lesser restrictive environment as the rationale. The PWN stated that placement in a self-contained classroom for the upcoming year was rejected due to the Student's progress as documented by data and classroom observations.

10. The District provided a Notice of Individualized Education Program Team Meeting to develop, review, or revise the Student's IEP dated November 7, 2023, for a meeting to be held on November 17, 2023, unsigned by the Parent. The Notice stated that it had been provided to the Parent as follows: Emails between the District and Parent to schedule a meeting, on November 2, 7, and 8, 2023; Notice mailed and sent home on November 7, 2023; date of meeting confirmed with Parent on November 8, 2023, by email. The contact log submitted by the District showed that the special education teacher mailed and sent a copy of the notice of meeting home with the Student.
11. The contact log showed that the Parent contacted the school about the Student's health, concerns about social media and hiring practices, communication with the Parent via Seesaw, and the special education process. The contact log showed email contacts with the Parent on November 7, and 8, 2023 scheduling the November 17, 2023, IEP meeting.
12. The IEP Meeting Participants on the signature page showed that the following people attended the IEP meeting on November 17, 2023: the Parent, the ECSE Teacher, the General Education Teacher, the SLP/Interpreter of Results, the Principal/Local Educational Agency Representative, the Occupational Therapist (OT), and an OT Student.
13. The Student's IEP team met on November 17, 2023; the IEP of that date section "Present Levels of Academic Achievement and Functional Performance" included a description of the Student's strengths that included beginning skills in matching letters and shapes, playing with blocks and following classroom routines, and brief statements of performance on IEP goals of following directions, answering questions, using functional communication, participating in group activities, using visual or verbal cues to follow routines and turn taking with partners. This IEP included an Occupational Therapy (OT) evaluation due to concerns with fine motor, self-help, and sensory differences. The OT evaluation found needs in self-help (toileting, handwashing, eating with utensils) and sensory (wandering from the center, laying on the floor when upset, supervision in transitions). Concerns of parents and team members were self-help, visual motor/fine motor, social-emotional, and

receptive/expressive language skills. The IEP stated that the Student's language and social-emotional delays affected the ability to have wants and needs met appropriately and to access the general education curriculum and that the Student's fine motor and self-help affected the ability to participate in the classroom.

14. At the November 17, 2023, IEP meeting, the Student was found eligible to begin OT services. This IEP included 3 goals related to the Student's disability: (1) communicate functionally and engage with peers, (2) improve fine motor skills to engage in self-help and play skills, and (3) participate in group activities and follow the classroom routine. Services for the remainder of the 2023-24 school year were: (a) Resource provided by the ECSE Teacher, 30 minutes 2 times a week, (b) OT provided 15 minutes 4 times a quarter, and (c) speech-language therapy for 30 minutes 6 times per month. At this time, transportation for the 2024-25 school year was dropped,
15. The November 17, 2023, IEP stated that the Student's progress would be reported to the Parents quarterly on IEP progress reports.
16. The November 17, 2023, IEP stated that the Student would receive all the special education services with general education peers: 34.3 hours per week in general education and 1.75 hours of special education/related services with general education peers.
17. As part of the November 17, 2023, IEP, the District provided a Prior Written Notice for change of services dated November 17, 2023. The PWN added OT services as in the IEP and removed transportation for the Student's kindergarten year (2024-25). According to the Special Education Checklist dated November 17, 2023, the IEP was mailed to the Parent.
18. The contact log submitted by the District showed that the special education teacher sent a copy of the IEP to the Parent on November 17, 2023. No format (mail or email) was noted on the log.
19. An email dated December 8, 2023, (included in a document submitted by the parent) from the Parent to the principal expressed the Parent's concern that the Student was not receiving instruction per the IEP, being recognized as a student with autism, achieving at the rate of the Student's peers, receiving proper supervision of hydration or having his diaper changed. The email expressed the Parent's concern that the Student was crying because he didn't want to go to school, that she had made several varied attempts to contact the school, and that the Parent wanted to observe the Student in the classroom.
20. The Parent's contact log included a report of school contacts in December 2023, and March 2024, repeating her concerns about the

Student's reaction to school attendance and the educational program. The Parent confirmed that the child had been withdrawn from school attendance in March 2023, and included a reply from the Principal that the school recognized that the child had autism, that the Parent had concerns about the general education placement, and that a meeting would be held in April or May in reply to her placement concerns.

21. The parent reported in an interview on May 29, 2023, that she decided not to observe in the classroom because it might further disrupt the Student and the classroom.
22. The Parent reported in an interview that she received only one progress report, in March 2024. When asked, she reported that she did not receive any other progress reports.
23. In an interview with the Special Education Director on May 30, 2024, the District reported that the typical practice for providing the progress reports is in person if the parent attended the associated parent-teacher conference and by mail if the parent did not attend the conference. The ECSE Teacher reported that she did not attend the parent-teacher conferences with the Parent and general education classroom teacher and that she did not routinely record mailing the progress reports as part of her communication log. In an email to the Investigator dated June 1, 2023, the Special Educator Director stated that: (a) the SLP met with the Parents who attended fall parent-teacher conferences and shared the progress report from the first quarter (b) the second quarter progress report was sent home with the Student and (c) the third quarter progress report was mailed the first week of April 2024.
24. Speech language attendance sheets showed Student attendance in Speech Language therapy from August 21, 2023, to February 29, 2024, (25 weeks of school) on 91 occasions, for 3 to 4 sessions weekly. An undated speech language data sheet was submitted with the District's evidence which was not considered due to lack of clarity.
25. In an interview with the ECSE Teacher on May 24, 2024, the Teacher reported going into the classroom to work with the Student two times a week for 30 minutes. Datasheets showed instructional data collected on the Student's IEP goals two times a week from August 2023 till February 27, 2024.
26. Therapy documentation showed OT therapy notes dated December 20, 2023 (Quarter 2); January 11 and 31, 2024; and February 8, 2024 (Quarter 3). Absences noted were: November 30, 2023, and December 12, 2023 (Quarter 2). Notes indicated that the Student stopped attending school at the end of February 2024.

27. The Student's progress report dated October 6, 2023, for the IEP dated March 24, 2023, showed a rating of "adequate progress" on the goal to participate in large group activities, follow a routine, and take turns 75% of the time as documented by observation and charting and on the second goal. The Student's data was 2/5 trials for following the routine, 1/5 trials for participating, and 33% for turn-taking with adults. The same progress report showed a rating of "adequate progress" on the goal to communicate functional information, answer simple questions, and follow simple directions on 4/5 trials as measured by informal assessment. The Student's data was recorded as 0/5 trials for functional communication, 0/5 trials for answering questions, and 0/5 trials for following directions.
28. The Student's progress report dated December 21, 2023, for the IEP dated November 17, 2023, showed a rating of "adequate progress" on the goal to **communicate functionally** and engage with peers on 4/5 trials as measured by informal assessment. The Student's data was "at times" asking for help or bringing an item to an adult and "at times" sharing space and playing beside peers. The same progress report showed a rating of "adequate progress" on the goal to **participate in group activities** and follow the classroom routine 80% of the time as measured by observations and charting. The Student's data showed participation in group activities for 3 minutes in 3 out of 5 opportunities and following the routine of the classroom with verbal and or visual cues in 2 out of 5 trials. On the third goal to **improve fine motor skills** to engage in self-help, and play skills in 75% of opportunities, the Student was able to make lines and shapes spontaneously, attend for more than 5 minutes, follow directions in toileting, and need help in toileting. The rating was "adequate progress."
29. The Student's progress report dated March 8, 2024, for the IEP dated November 17, 2023, showed a rating of "adequate progress" on the goal to **communicate functionally** and engage with peers on 4/5 trials as measured by informal assessment, with student data of engaging with an adult for 25% of opportunities. However, a second rating on the same goal to **communicate functionally** and engage with peers on 4/5 trials as measured by informal assessment showed a rating of "insufficient progress." In this rating, the student data showed functional communication on 1 out 5 opportunities, rare imitation of a model, crying on the floor when directed from a preferred activity, with a preference to play alone failing to engage with a teacher or peer, and engagement with a peer or adult - 1 out 5 opportunities. The same progress report showed a rating of "adequate progress" on the goal to **participate in group activities** and follow the classroom routine 80% of the time, with

- student data of participation in small group and whole group activities for 3 minutes in 4 out of 5 trials and for 5 minutes in 3 out of 5 trials, and following the routine of the classroom with verbal or visual cues in 1 of 5 trials. On the goal of **improving fine motor skills** to engage in self-help, and in play skills in 75% of opportunities, the Student, the rating was "adequate progress" with student data of completing self-help and toileting routines with fewer cues, completing independent pre-writing tasks 3/4 trials, and increased pretend play, with a preference for "non-adult directed play."
30. In an interview on May 29, 2024, the Special Education Director reported that the early childhood program provided instruction for the Student in support of the IEP goals and directed the Investigator to the Student's Teaching Strategies GOLD Assessment report. Assessment ratings are made in spring, fall, and winter on indicators categorized as social-emotional, physical, language, cognitive, literacy, mathematics, and science-technology. This report showed that the Student overlapped with age expectations on 9 of the 63 indicators or sub-indicators. The social-emotional indicator of interacting with peers showed no progress between the Spring 2022-23 and the Winter 2023-24 ratings, below the expectations for same-age peers. On the language indicator of following directions, the Student's rating improved from Spring 2022-23 to the Winter 2023-24 rating, with both below the expectations of same-age peers.
 31. The District provided a Notice of Individualized Education Program Team Meeting to develop, review, or revise the Student's IEP dated April 17, 2024, for a meeting to be held on May 17, 2024, unsigned by parents. The Notice stated that it had been provided to the Parents as follows: Emails between the District and Parent to schedule a meeting, on April 5, 7, and 16, 2024; a phone call from the Principal to Parent to confirm the date on April 16, 2024, and Notice mailed on April 17, 2024. An email exchange between the Parent, Principal, Special Education Director, and ECSE Teacher on April 16 and April 17, 2024, pertaining to the scheduling of the IEP meeting was provided to the Investigator.
 32. The Parent's contact log showed that on April 16, 2024, the Parent initiated confirmation of a date for the IEP meeting after having been last contacted by the school on April 6, 2024.
 33. According to the interviews with the Parent on May 29, 2024, and the Special Education Director on May 30, 2024, both the Parent and the District agree that an IEP meeting was held on May 17, 2024.
 34. The IEP dated May 17, 2024, provided updated present levels of academic achievement and functional performance data, including student strengths along with data from OT, Speech Language, Resource

Special Education, Teaching Strategies GOLD, and the parental additions of a medical diagnosis of autism, home language and sensory performance, and effective strategies for calming the Student. The IEP goals were (in brief): to communicate functionally and engage with his peers, to improve functional independence in the classroom, to increase math skills, and to participate in self-care without assistance. Services including direct speech language and occupational therapy were determined for the 2024-25 school year to be provided in an Alternate Curriculum Program due to the Student's need for an alternate curriculum. The associated PWN dated May 17, 2023, stated that the District rejected a shortened day for the Student requested by the Parent. The District's rationale was that a full day of services was needed for the Student to be provided FAPE and to make progress.

Issue # 1

Whether the District is providing special education and related services in accordance with the IEP (allegation 3)?

92 NAC 51-007.02 states:

007.02 *School districts or approved cooperatives must provide special education and related services to a child with a disability in accordance with the child's IEP.*

007.02A *At the beginning of each school year, each school district or approved cooperative shall have an IEP in effect for each child with a verified disability within its jurisdiction.*

007.02A1 *From the end of the school year in which a child reaches age 3, until the child's sixth birthday, the IEP team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in 92 NAC 52 (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with an IFSP who are at least three years of age), and that is developed in accordance with the IEP procedures. The IFSP may serve as the*

IEP of the child if using the IFSP as the IEP is agreed to by the school district or approved cooperative and the child's parents.

- 007.02B *Each school district or approved cooperative shall ensure that an IEP is in effect before special education and related services are provided to a child with a verified disability under this Chapter.*
- 007.02C *The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and*
- 007.02D *Each teacher and provider described in 92 NAC 51-007.02C must be informed of his or her specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.*

Allegations/Parent Position

According to the Letter of Complaint dated April 19, 2024, the Parent alleged that she received pictures of the Student on Seesaw that showed the Student being in the Student's own world and not interacting with the others around him. The Parent stated, "If you are not working with [the Student], doing what is on the IEP, then we are all failing [the Student]." The Parent alleged that the cognitive therapist told her that her child was in their own world. The Parent alleged that the teacher said that the Student was not her only student, and the Parent concluded that the size of the class precluded working with her child.

District Response

According to the District's response to the allegations dated May 16, 2023, the District stated that it is providing special education and related services in accordance with the Student's IEP, and the District pointed to service information submitted as evidence. The District also responded that the Student had not attended school since February 29, 2024.

Investigative Findings

Two IEPs are relevant to this investigation focused on the 2023-24 school year. At the beginning of the 2023-24 school year, the Student's March 24, 2023, IEP required special education resource support for one hour weekly, speech-

language therapy as direct service for 30 minutes 6 times a month, and the Student's current IEP dated November 17, 2023 added OT for 15 minutes four times a quarter, for 1.75 hours special education/related services with general education peers with the remainder of the school day spent in the general education classroom (Findings of Fact 3 -5 and 12-14). The Student's November 17, 2023, IEP goals were (in brief) (1) communicate functionally and engage with peers, (2) improve fine motor skills to engage in self-help, and play skills, and (3) participate in group activities and follow the classroom routine (Finding of Fact 13).

In the Letter of Complaint dated April 19, 2024, and the evidence submitted with it, the Parent reported that she was told by teachers that the child was "in [the Student's] own world" during the school day. The complainant submitted photos of the Student in solitary activity in the classroom as evidence of the child's classroom isolation and the District's failure to implement the IEP. The Parent was concerned enough to ask to observe in the classroom, although she ultimately did not do so (Findings of Fact 20 and 21). However, the IEP services were being provided by the ECSE teacher, Speech Language Pathologist (SLP), and Occupational Therapist as required in the IEP during this time (Findings of Fact 24-26).

The District assessed the Student's progress on the goals as adequate, except during the March 8, 2024 reporting period when the Student's progress on functional communication was rated as insufficient (Findings of Fact 27-29).

Summary and Conclusions

Based on evidence that there was an IEP in place for the Student during the investigation period and that the IEP services were being provided as required, the District implemented the requirements of 92 NAC 51-007.02, and **no corrective action** is required.

Issue # 2

Whether the District has developed an IEP for the Student including a statement of the special education and related services needed by the Student (allegation 2)?

92 NAC 51-007.07A states:

007.07 *IEP Development*

007.07A *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;*

007.07A5b *To be involved in and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and*

007.07A5c *To be educated and participate with other children with disabilities and nondisabled children in the activities described in 92 NAC 51-007.07A5;*

007.07A8 *The projected date for the beginning of the services and modifications described in 92 NAC 51-007.07A5 and the anticipated frequency, location, and duration of those services and modifications*

Allegations/Parent Position

According to the complaint of April 17, 2023, the Parent alleged that the school did not communicate what they were doing with the Student and that the school's automated communication was inaccurate. In an email dated May 2, 2024, to the Investigator, the Parent stated that to characterize the Student as in one's own world was to dehumanize the Student and that this was the way the

school's early childhood program operated. As evidence that the school did not know her child's needs, the Parent submitted her email to the principal dated December 8, 2023, stating that her child has autism and yet there is no recognition of the child's needs in the classroom, including his need for toileting care and supervision of hydration.

District Response

According to the District response dated May 15, 2024, the District responded that it developed an IEP that included a statement of the Student's special education needs and related services and pointed to the IEP dated November 17, 2023 (pages 4 and 5) and the IEP dated March 24, 2023 (pages 2, 4 and 5).

Investigative Findings

In this case, the Parent alleged that the classroom was not aware of the child's needs as evidenced by her experiences of her child coming home with a wet diaper, crying when the child had to go to school, neglect of the Student's water bottle by school staff, and dehumanizing descriptions of the child by the school staff. She communicated these concerns to the school (Findings of Fact 11 and 19).

The District's documentation showed the Student's current evaluation describing the child's needs (Finding of Fact 1), the IEP dated March 24, 2023, that included a description of the child's needs and the services that would be provided (Finding of Fact 3), and the IEP dated November 17, 2023, that included a description of the child's needs, OT evaluation, and the services that would be provided (Finding of Fact 13). Further, the District provided and delivered Prior Written Notices associated with each of the IEPs (Findings of Fact 9, 17, and 18).

Summary and Conclusions

Based on the present levels of academic and functional performance sections of the Student's IEPs in the past 12 months, as specified in Findings of Fact 3 and 13, the District implemented the requirements of 92 NAC 51-007.07A, and **no corrective action** is required.

Issue # 3

Whether the District included in the IEP a description of how the child's progress will be measured and provided (allegation 4)? [92 NAC 51-007.07A4]

92 NAC 51-007.07A states:

007.07A

The IEP shall include

007.07A4

A description of how the child's progress toward

meeting the annual goals described in 92 NAC 51-007.07A2 will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

Allegations/Parent Position

According to the complaint of April 17, 2023, the Parent alleged that the school did not communicate what they were doing with the Student who is non-verbal. The Parent expressed concern about the need for more communication with the Parent, the reliance upon inaccurate automated means of communication, the ineffectiveness of the early childhood program, and the potential for abuse of children in the District.

District Response

According to the District Response dated May 16, 2024, the District responded that a description of how the Student's progress was measured was included on the IEP dated November 17, 2023, (pages 3-4) and on the IEP dated March 24, 2023 (pages 3-4). The District responded that each goal and objective specifically stated who is responsible for measuring progress, the evaluation method, and the frequency of evaluation. The District responded that quarterly progress reports were sent to the Parent and provided copies of these progress reports. The District response also stated that Early Childhood students are required to be evaluated utilizing the Teaching Strategies GOLD Assessment System and the Parent received this assessment's results at Parent-teacher conferences.

Investigative Findings

The Student's IEP dated March 24, 2023, and November 17, 2023, include statements that specify that progress on IEP goals would be reported quarterly, at the same time as grade reporting (Findings of Fact 4 and 15). The District provided copies of quarterly progress reports for the Student's IEP goals (Findings of Fact 27, 28, and 28) and a copy of the Student's Teaching Strategies GOLD

report (Finding of Fact 30) to the Investigator. The District reported that its practice is to give and discuss progress reports with parents at parent-teacher conferences, and to mail the progress reports if the parents do not attend conferences (Finding of Fact 21). The District reported that the Parent attended the fall conference and the SLP shared the progress report with them, the second quarter report was sent home with the child and the third quarter report was mailed (Finding of Fact 23). The parent reported receiving one progress report in March 2024 (Finding of Fact 22).

Summary and Conclusions

Based on the inclusion of the progress reporting statement in the IEPs and the District's delivery of the reports, the District implemented the requirements of 92 NAC 51-007.07A4, and **no corrective action** is required.

Issue #4

Whether the Student's IEP team has made placement decisions in conformity with the least restrictive environment requirements (allegation 1)?

92 NAC 51-008.01 states:

008.01 *Least Restrictive Environment (LRE) Requirements*

008.01A *The school district or approved cooperative shall establish policies and procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or nonpublic schools and approved service agencies, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.*

008.01B *Before any action is taken with respect to the initial placement of a child with disabilities, the school district or approved cooperative shall be responsible for the provision of a comprehensive individual multidisciplinary evaluation of the child's development and educational needs.*

008.01C *In determining the educational placement of a child with a disability, including a preschool child with a*

disability, school districts and approved cooperatives must ensure that:

008.01C1 *The placement decision is made by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and*

008.01C2 *The placement decision is made in conformity with the least restrictive environment requirements in 92 NAC 51-008.01 and based on the child's unique needs and not on the child's disability.*

008.01D *Each school district or approved cooperative must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.*

008.01D1 *The continuum must:*

008.01D1a *Include instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions; and*

008.01D1b *Make provision for supplementary services (such as resource or itinerant instruction) to be provided in conjunction with regular class placement.*

008.01E *The school district or approved cooperative shall ensure that the educational placement of a child with a verified disability:*

	008.01E1	<i>Is determined at least annually;</i>
	008.01E2	<i>Is based on his or her individualized education program (IEP)</i>
	008.1E3	<i>Is as close as possible to the child's home</i>
008.01F		<i>The various array of placement options included under 92 NAC 51-008.01D must be available to the extent necessary to implement the individualized education program for each child with a verified disability.</i>
008.01G		<i>Unless a child's IEP requires some other arrangement, the child must be educated in the school which he or she would attend if not disabled.</i>
008.01H		<i>In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the child or on the quality of services which he or she needs.</i>
	008.01I	<i>A child with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum</i>

Allegations/Parent Position

In the written allegation of April 17, 2023, and the evidence submitted with it, the Parent's concern was that her child was not receiving instruction in the general education classroom, based on photos showing the Student in solitary activities in the classroom and based on hearing the child described as in their "own world" by school staff. The Parent alleged that the teacher stated that the Student "was not [their] only student" leading the Parent to believe that the

teacher had too many students to attend to implementing the Student's IEP. The Parent alleged that the school was failing all the students with autism in the early education program and that the school was not providing special instruction despite being provided funds to do so.

District Response

In the District's response dated May 15, 2024, the District responded that "the team made placement decisions in conformity with the least restrictive environment requirements. [The Student's] progress reports show [the Student] was largely making progress in the Early Childhood Special Education classroom in March 2023 so the team determined [the Student's] least restrictive environment would be with general education peers in an inclusive Early Childhood classroom with special education and related services for support. The IEP team [was] scheduled to meet on May 17, 2024, to discuss placement and services needed for Kindergarten based on progress, current data, and parent input."

Investigative Findings

In the Student's IEP dated March 24, 2023, the location and extent of IEP services changed from full-time placement in the Early Childhood Special Education (ECSE) classroom during the spring of 2023 to general education classroom placement with Resource and Speech-Language services at the beginning of the 2023 (Findings of Fact 3 and 5). The District reported that the discussion of the general education placement beginning in August 2023, occurred at the March 24, 2023, IEP meeting attended by the Parent and that the teacher had conversations with the Parent explaining the placement in the weeks preceding the meeting (Finding of Facts 3, 5 and 6). The Parent attended the November 17, 2023, IEP meeting at which the Student's IEP was revised to add OT services while establishing similar classroom and language goals without changing the Student's general education placement with resource services (Findings 12, 13, 14, and 16). The parent reported her concerns about the Student's experience in the classroom to the school through a series of contacts with the school principal and with the special education department occurring in December and March (Findings of Fact 19 and 20). Both parties agreed that the Parent withdrew the child from school attendance in March (Finding of Fact 20 and District Response) and that an IEP meeting was held on May 17, 2024, in which the Student's placement and next year's IEP were discussed (Finding of Fact 33 and 34).

The District provided a classroom schedule that showed that the 2023-24 preschool classroom included learning centers, small groups, and self-help (toileting, handwashing, eating, rest time) during which the Student's IEP goals

and accommodations could be implemented in addition to the provision of the resource services required by the IEP (Findings of Fact 7, 8, 24, 25 and 26). The District provided a list of accommodations witnessed in use in the general education classroom (Finding of Fact 7). The District's Response asserted that the Student was "largely making progress" in the 2023-24 school year placement. An examination of the progress reports and Teaching Strategies GOLD report showed ratings of "adequate progress" with incremental improvements in trial and assessment data where they occurred, with an especially noteworthy lack of progress in language and peer interactions given the general education preschool setting presumed to be the most beneficial environment to promote social and language learning (Finding of Facts 27, 28, 29 and 30). The parental concern pertaining to social isolation, lack of language opportunities, and further social and language development are notable.

However, in this case, the District's obligations were met. First, the placement decision is made by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options (008.01C1) at least annually and allows the child to go to the school closest to the family home unless a different arrangement is required by the IEP (008.01E) (Findings of Fact 1, 3, and 12). Second, the placement decision is made in conformity with the least restrictive environment requirements based on the child's unique needs and not on the child's disability(008.01C2)and which makes provision for supplementary services (such as resource or itinerant instruction) to be provided in conjunction with regular class placement (008.01D1b), which were made available in this case by the IEPs in place during the 2023-24 school year and implemented by the District (Findings of Fact 5, 7, 14, and 16). Finally, the Student's IEPs include statements that consider the potentially harmful effects on the child or the quality of services (008.01H) as noted in the effects of the disability and participation in general education sections of the IEPs, and the Student was not removed from education in an age-appropriate regular classroom because of needed modifications in the general curriculum (008.01I) (Findings of Fact (Findings of Fact 3, 5, 13). Further, the most recent placement decision for the 2024-25 school year responded to parental concerns with the 2023-24 placement (Finding of Fact 34).

Summary and Conclusions

Based on the findings above the District made placement decisions based on the child's needs and provided services in the District implemented the requirements of 92 NAC 51-008.01 and **no corrective action** is required.

Issue # 5

Whether the District has provided notice of meetings for the Student's IEP meeting (allegation 5) [92 NAC 51-009.01]

92 NAC 51-009.01 states:

009.01 *Parent Participation in Meetings*

009.01A *The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child.*

009.01B *Each school district or approved cooperative must provide notice consistent with 92 NAC 51-007.06A1 and 007.06B to ensure that parents of children with disabilities have the opportunity to participate in meetings described in 92 NAC 51-009.01A.*

009.091C *A meeting does not include informal or unscheduled conversations involving school district or approved cooperative's personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district or approved cooperative's personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.*

Allegations/Parent Position

In the Letter of Complaint dated April 19, 2024, the Parent stated that she had to email the case manager to find out when the IEP would be held and how the school and Parent would move forward.

District Response

In the District Response, the District replied that the District provided notice of IEP meetings, provided IEP invitations in the evidence submitted, and also included copies of emails sent to the Parent arranging the IEP meetings along with contact log information regarding setting up IEP meetings.

Investigative Findings

The Parent and the District agree that IEP meetings were held on March 24, 2023, and November 17, 2023, prior to the complaint's date. Notice of meetings

dated March 3, 2023, and November 7, 2023, occurred 10 days before the scheduled meeting dates, with email or phone correspondence with the Parent to schedule the meetings (Findings of Fact 2, 10, and 11). A notice of meeting dated April 17, 2024, for a meeting on May 17, 2024, with previous email correspondence to schedule the meeting, also gave 10 days prior notice to the IEP meeting (Findings 31 and 32).

The Parent and the District provided copies of text, email, or transcribed voicemail communications setting up the May 17, 2024, meeting (Findings 31 and 32).

Summary and Conclusions

Based on the documentation of scheduling and sending notice of meetings for the IEP meetings as noted above, the District implemented the requirements of 92 NAC 51-009.01, 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.