

COMPLAINT INVESTIGATION REPORT

Complaint Number: 24.25.17
Complaint Investigator: REDACTED
Date Complaint Filed: December 11, 2024
Date of Report: REDACTED

Introduction

This report is in response to a complaint filed with the Nebraska Department of Education (NDE) on behalf of a student who is a 19-year-old receiving special education and related services under the eligibility category of Autism. The District recorded a medical diagnosis of autism on October 23, 2019, in a Determination Notice dated September 15, 2022. The Student returned to the District as an 11th grader after being out of the country for the ninth and tenth grades and the Determination Notice and an IEP were written for the Student to receive special education and related services. The Student received specialized instruction in the areas of functional reading, writing, mathematics, and social and vocational skills through the district's transitional learning program. Related services included speech/language and transportation services.

The Parent's complaint was regarding communication between the home and school, instruction with high expectations, and procedural errors related to dismissing the student from special education services.

Issues Investigated

1. Did the District provide the Parent with regular school updates specific to the Student's experiences and daily routine during the past twelve months? [92 NAC 51-007.07A4]
2. Did the District design the student's IEP with high expectations using effective teaching strategies during the past twelve months? [92 NAC 51-007.01;007.07A1; 007.07A2; 007.07A5]
3. Did the District follow special education procedures when dismissing special education services in the student's IEP following an accident on September 9, 2024? [92 NAC 51-006.06E; 007.06B; 007.06E; 009.01A; 009.01B; 009.08B4a]

Information Reviewed by Investigator

From the Complainant

- Letter of Complaint to NDE dated, December 11, 2024

From the School District

Issue #	Information Requested	Information Received
Communication	District Response	Interview dated January 16, 2025
Issues # 1, 2, 3	2023-2024 and 2024-2025 IEPs, meeting notes, Notice of Meetings (NOM), IEP amendments, and PWNs	IEP dated: <ul style="list-style-type: none">• January 31, 2024• January 31, 2024 (amendment)• August 12, 2024 (amendment) NOM dated: <ul style="list-style-type: none">• January 11, 2024• August 26, 2024 PWN dated <ul style="list-style-type: none">• January 23, 2024• August 14, 2024

Issue #	Information Requested	Information Received
Issue #2	MDT Report	<ul style="list-style-type: none"> • Parent Consent for Individual Evaluation dated January 4, 2023 • MDT dated January 26, 2023
Issue #2	2023-2024 AND 2024-2025 Progress Reports	IEP Progress Report for Progress Period September 20, 2024;
Issue #1	Copies of emails or communication discussing communication notebook during the 2023-2024 AND 2024-2025 school years	<ul style="list-style-type: none"> • Phone log dated September 6, 2024, through September 23, 2024 • Letter from Transitional Living Program Teacher dated September 13, 2024
Communication	Any additional documentation pertinent to the resolution of the complaint issues	Revocation of Consent for Special Education dated September 25, 2024
Communication	Any additional documentation pertinent to the resolution of the complaint issues	Screenshot of phone calls from district to mother dated: <ul style="list-style-type: none"> • September 20, 2024, at 3:03 • September 25, 2024, at 11:14 a.m., 11:27 a.m.
Communication	Any additional documentation pertinent to the resolution of the complaint issues	Screenshot of text from district to mother dated September 20, 2024, at 3:13 p.m.
Communication	Any additional documentation pertinent to the resolution of the complaint issues	Screenshot of text exchange between Mother and District dated between September 23, 2024, at 1:53 p.m. and September 24, 2024, at 12:53 p.m.
Communication	Any additional documentation pertinent to the resolution of the complaint issues	Transitional Learning Program brochure
Communication	Any additional documentation pertinent to the resolution of the complaint issues	An email exchange between the bus company and the director of special education dated January 16, 2025, between 2:23 p.m. and 2:24 p.m.

Findings of Fact

1. The Multidisciplinary Team Report dated January 6, 2023, included "STRENGTHS: [Student] is able to read basic text fluently but is not comprehending the information. [Student] is able to follow the schedule and knows where to go for each class. [Student] is listening for verbal cues to complete tasks. CONCERNS: [Student] should work on academic skills in reading, writing, and mathematics. [Student] has difficulty with work skills. [Student] has difficulty with pragmatic language. [Student] has difficulty with atypical behaviors The MDT discussion recorded the following: "Academics will always be hard for [Student]. [Student] had the ability to read text fluently but [Student] struggles with comprehension and higher-level skills. [Student] is still working on appropriate social responses. [Student] usually answers questions with one to two-word responses. [Student] likes to pace and move around when [Student] is not directed to do a structured activity. When [Student] is given a structured activity [Student] will continue to rock or pace while completing the task. [Student's] mother stated that [Student] enjoys watching videos, but they are

watching the content closely. [Student's] SLP stated that [Student] will need processing time after being asked a question. The staff and [High School] have struggled with the need to be rewarded with food items. [Student] has digestive issues and takes medication at home but in the past [Student] has struggled with accepting "no" to an answer when concerning extra food. [Student] is doing much better with those situations." Educational Needs include: Continuing with job skills, putting supports in place for future plans (transition activities), Reading and Math in all areas, Written language, Adaptive skills for getting ready for life after high school, developing essential communicational skills in a supported job setting.

2. The IEP dated January 26, 2023, included four goals directed at reading, mathematics, social skills, and work skills. The IEP included 375 minutes of Specially Designed instruction five days every week in public schools; 15 minutes of SLP one day every month and 15 minutes of transportation twice daily. Nine accommodations were included, and OT support will be available to school personnel to problem-solve instruction. This IEP does not include any goals, services, supplementary aids, and supports related to communications with the parents. Each of the goals in this IEP states that the Evaluation Progress Report Schedule is Quarterly.
3. The PWN dated January 26, 2023, adopted the January 26, 2023, IEP services as written and was signed by the parent on that date.
4. The IEP dated January 31, 2024, included four goals directed to reading, mathematics, social skills, and work skills. The IEP included 375 minutes of Specially Designed instruction five days every week in public schools; and 15 minutes of SLP one day every month. Three accommodations were included. The IEP dated January 31, 2024, includes a transition plan using transition assessment data. This IEP does not include any goals, services, supplementary aids, and supports related to communications with the parents. Each of the goals in this IEP states that the Evaluation Progress Report Schedule is Quarterly.
5. The PWN dated January 23, 2024, adopted the January 31, 2024, IEP services as written and based on the MDT findings. It was signed by the parent on that date.
6. The IEP amendment dated January 31, 2024, added that the student will go to the Transitional Learning Program.
7. The IEP Progress Report for Progress Period - 05/20/2024 records the Baseline on each of the IEP goals on January 31, 2024, with progress reporting on February 14, 2024 and May 20, 2024.
8. The IEP amendment dated August 12, 2024, added 15 minutes of transportation services twice daily five days every week, added five additional accommodations, and changed the Student's placement to the Transitional Learning Program. The IEP amendment dated August 12, 2024, This IEP does not include any goals, services, supplementary aids, and supports related to communications with the parents. Each of the goals in this IEP states that the Evaluation Progress Report Schedule is Quarterly.
9. The PWN dated August 14, 2024, adopted the January 31, 2024, IEP services and amendments from August 14, 2024, as written and was signed by the parent on August 17, 2024.
10. The mother stated during the interview on December 27, 2024, that when the student first started at the high school a notebook was provided, but not completed by the staff so during the last twelve months a notebook was not sent from home. She further stated that when the student moved to the transition program a visual schedule came home with the student every three to four days, but it did not provide many details about the

student's day. She stated that she planned to ask for more school/home communication in the upcoming IEP.

11. The director of special education stated during the January 16, 2025, interview that the district uses text, phone calls, Education Platform 1, Education Platform 2, and progress reports as means to regularly communicate with families. The teacher at the transition program stated that when she called at the beginning of the school year it was determined that the student's daily schedule would be sent home with the student and during the student's twelve days at the transition program this was done. The transition teacher stated that an Education Platform 2 invitation was sent to the family, but a response was not received.
12. The IEP amendment dated August 14, 2024, moved the student's placement to the transitional program full-time and added special education transportation. It was signed by the mother on August 17, 2024.
13. The screenshot of a text exchange between the Mother and District dated between September 23, 2024, at 1:53 p.m. and September 24, 2024, at 12:53 p.m. records, "...we let [Transition Teacher] know [Student] will not be back, I will come on Wednesday about 11:10 to pick up [Student's] items and bring back the headphone." To which the district responded, "Okay. We are sad to see [Student] go, but I understand and respect (sic) your decision. We will see you on Wednesday."
14. The document titled, Revocation of Consent for Special Education signed by the parent on September 25, 2024, states, "An individualized education program team has determined child [name of student] has a disability and is eligible to receive special education and related services and I gave consent for these services. I am now revoking consent for my child to receive all special education and related services. I understand the [District] will promptly provide me with a prior written notice explaining when my child's special education and related services will stop. Special education and related services will stop a reasonable time after I receive the notice. I further understand, that once special education and related services end, the [District]: 1) is not required to make a free and appropriate education available to my child; 2) is not required to have an IEP meeting or develop an IEP for my child; 3) is not required to offer my child the discipline protections under the IDEA; and 4) is not required to amend my child's education records to remove any reference to my child's receipt of special education and related services. I further understand by revoking consent for special education and related services for my child I am not waiving my right for my child to be evaluated in the future or for my child to receive special education and related services in the future. I understand any future evaluation will be treated as a request for an initial evaluation."
15. The PWN dated September 25, 2024, describes the proposed action as, "Discontinuation of Special Education Services: Parent Withdrawal from Special Education. The team proposed to discontinue special education and related services for [Student] within the [District]." Because "[Parents] have revoked consent for their child to receive special education and related services at [District]." It is further recorded that, "This action is based on receipt of a signed letter or revocation, dated 09/25/2024. The team went over the transition services in regard to developmental disability services. Parents received the notice of cessation of services including [Student's] most recent IEP." Finally, "[Student] will be eligible for Special Education Services until May of 2027 should the parents reconsider their decision to revoke Special Education Services."
16. The mother stated during the interview on December 27, 2024, that in middle school a notebook that went back and forth between home and school in the student's

backpack was a good system for her to learn about the student's daily activities since the student does not spontaneously talk about school activities.

17. The parent stated during the interview with the investigator on December 27, 2024, that she did not wish to withdraw the student, but her intention was to meet with the district staff to express concern about her child's safety and was surprised by the District's taking away the Student's services when she went to pick up the Student's things.
18. The brochure describing the Transition program showed it focused on functional skills and work skills. The district staff stated during the January 16, 2025, interview with the investigator that the program had a total of ten students and seven paraeducators as well as the transition teacher.
19. The District staff stated during the January 16, 2025, interview with the investigator that during the past twelve months, the Student's wait time improved and the Student gained more verbal skills. Also, the student moved from more physical prompting to more non-gestural, visual prompting, and independent performance as documented in the Student's progress reports.
20. During the interview with the District staff with the investigator on January 16, 2025, the district expressed they were sad to see the student leave and stated they would meet with the family to discuss how to reassure the parents the student would be safe.

Issue # 1

Did the District provide the Parent with regular school updates specific to the Student's experiences and daily routine during the past twelve months? [92 NAC 51-007.07A4]

92 NAC 51-007.07A4 states:

007.07 *IEP Development*

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

In the December 11, 2024, letter of complaint, the parent alleged that at IEP meetings the parents asked the teacher to share the student's daily routine and how the student is doing in school activities since the student does not say much. They stated that they provided a communication notebook to the school so that staff could write down how the student's day was, but the notebook was never used, and the staff did not communicate in any other means to share information. They say they tried many times to talk and left messages with the special education teacher, but it did not solve any problems. The mother stated during the interview on December 27, 2024, that in middle school a notebook that went back and forth between home and school in the student's backpack was a good system for her to learn about the student's daily activities since the student does not spontaneously talk about school activities.

District Response

The district responded during their interview on January 16, 2025, that the parents had not requested to use a communication notebook in the past twelve months and that in conversations with the family during the past twelve months, they did not recall the parents expressing concerns with communications between the home and school. They further responded that a communication notebook is something that was used in the transition program and if they had known of the family's request they would have complied.

Investigative Findings

Findings of Fact 11 and 17 show that the parent's attempts to receive daily communication via a communication notebook occurred over twelve months ago. Findings of Fact 3, 5, and 9 show that the IEP did not specify regular communications beyond the progress reports on IEP goals. The finding of Fact 12 shows that the high school and transition program have regular practices for communication with families and the communication methods and frequency with the family were comparable to other students in the student's classes or program. The finding of Fact 8 shows that the district complied with 92 NAC 51-007.07A4 in regard to providing the family progress on IEP goals.

Summary and Conclusions

Rule 51 does not regulate ongoing communication between the parent and school if it is not specified in the Student's IEP beyond the frequency of reporting progress on the IEP goals. In this case none of the IEPs during the past twelve months specified parent and school communications. The district has routine practices for communicating between the school and home and the district described those procedures and how they were shared with the family during their interview. The parent confirmed these practices during her interview.

Based on documentation review and interview with the parent and district, the District implemented the requirements of 92 NAC 51-007.07A4, and **no corrective action** is required.

Issue # 2

Did the District design the student's IEP with high expectations using effective teaching strategies during the past twelve months? [92 NAC 51-007.01;007.07A1; 007.07A2; 007.07A5]

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.*

92 NAC 51-007.07A1 states:

007.07 *IEP Development*

007.07A *The IEP shall include:*

007.07A1 *A statement of the child's present levels of academic achievement and functional performance, including:*

007.07A1a *How the child's disability affects the child's involvement in and progress in the general education curriculum (i.e., the same*

curriculum as for nondisabled children);

007.07A2a *Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and*

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

92 NAC 51-007.07A5 states:

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.*

Allegations/Parent Position

The parent alleged in the December 11, 2024, letter of complaint that the student has not made any advancement in core classes because the staff set zero expectations. The parent stated that one of the reasons that the student did not improve was that the staff did the same thing repeatedly rather than teaching new content at the student's instructional level and at a slower pace. The parent clarified during the December 27, 2024, interview that prior to 11th grade the

student was educated in some general education classes, but after that was in special education classes only. She stated that in the special education classes, the student was taught kindergarten-level content, and since the student did not initiate that this content was already learned the student was not pushed. The parent further clarified that she did not understand the shift from academic to functional academics and why the student would have to stay in the school system for three years to be employed.

District Response

The district responded during the January 17, 2025, interview that the student was out of the country during 9th and 10th grade and didn't reenroll until 11th grade. At that point, they moved to reevaluate the student to determine current skills and identify instructional priorities and discuss with the family transition activities and services and the program of studies. They further responded that the shift from academic skills to the functional application of academic skills was discussed at the IEPs and that they saw progress in the student's learning and skills during the past twelve months as demonstrated by the progress reports.

Investigative Findings

The findings of Issue #1 are incorporated herein by reference. Findings of facts 3, 5, 7, and 9 show that two IEPs, with two amendments, were in effect during the past twelve months. The Determination Notice and MDT dated January 6, 2023, documents present levels of academic achievement and functional performance that appear in the IEPs (Findings of Fact 1 and 2). The IEPs, amendments, progress reports, and PWNs reference the MDT, discussions, and decisions regarding goals, objectives, special education and related services, and supplementary aids and supports connected to the MDT (Findings of Fact 3, 4, 5, 6, 7, 8, 9, 10, 13, 19). Interviews with the district staff and progress reports show that the level of prompting moved from full physical prompting to verbal and gestural through instruction (Finding of Fact 20).

Summary and Conclusions

Rule 51 describes that the IEP team should design the student's IEP with high expectations using effective teaching strategies based on comprehensive evaluation. A comprehensive evaluation should be written into present levels from which the IEP team determines measurable goals and special education and related services. In this case, it is found that the student's most current re-evaluation (MDT) was completed, and the IEPs for the past twelve months were consistent with the MDT. The Progress Reports show that the student's level of prompting was becoming less directive, and the district was able to describe how the goals were implemented in the school/transition program setting and community.

Based on the interview with the parent, district, and evidence, the District implemented the requirements of 92 NAC 51-007.01; 007.07A1; 007.07A2; 007.07A5, and **no corrective action** is required.

Issue # 3

Did the District follow special education procedures when dismissing special education services in the student's IEP following an accident on September 9, 2024? [92 NAC 51-006.06E; 007.06B; 007.06E; 009.01A; 009.01B]

92 NAC 51-006.06E states:

006.06 *Review of Existing Evaluation Data*

006.06E *A school district or approved cooperative shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.*

006.06E1 *The evaluation described in 92 NAC 51-006.06E is not required before the termination of a student's eligibility under this Chapter due to graduation from secondary school with a regular high school diploma, or to exceeding the age eligibility for a free appropriate public education under Neb. Rev. Stat. §79-1126. For a child whose eligibility terminates under these circumstances, a school district or approved cooperative shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.*

92 NAC 51-007.06B states:

007.06 *Parent Participation*

007.06B *The notification under 92 NAC 51-007.06A1 must indicate the purpose, time, and location of the meeting and who will be in attendance and inform the parents of the provisions of 92 NAC 51-007.03A6, 007.03A6a, and 007.05.*

007.06B1 *For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, the notice also must:*

007.06B1a *Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child in accordance with 92 NAC 51-007.07A9; and*

007.06B1b *Indicate that the school district or approved cooperative will invite the child to the meeting; and*
007.06B1c Identify any other agency that will be invited to send a representative.

92 NAC 51-007.06E states:

007.06 *Parent Participation*

007.06E *The school district or approved cooperative shall take whatever action is necessary to ensure that the parent understands the proceedings of an IEP conference, including arranging for an interpreter for parents who are deaf or whose native language is other than English*

92 NAC 51-009.01A and 92 NAC 51-009.01B 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.*

009.08 *Parental Consent*

009.08B *Consent for Services*

009.08B4 *If at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the school district or approved cooperative:*

009.08B4a *May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 92 NAC 51-009.05 before ceasing the provision of special education and related services*

Allegations/Parent Position

In the December 11, 2024, complaint letter to NDE the parent alleged that after a school bus accident on September 9, the parent had kept the student home while waiting to meet with the district about the accident. During that time, the parent came to the school to pick up some of the student's personal care items and was met by one of the special education staff who told

the parent that the student would no longer get all of the special education services in spite of not having a meeting or letting the parent know this.

District Response

The district responded in the January 16, 2025, interview that they did not want the student to withdraw from special education services, but reluctantly agreed when the mother revoked services. They state that a ready, willing, and able document was provided to the mother to allow the student to return and continue with special education services as long as the student was eligible.

Investigative Findings

The findings of Issues #1 and #2 are incorporated herein by reference. Findings of Fact 1 and 2 show that the student was eligible for special education. The finding of Fact 14 shows that the mother texted the school staff on September 23, 2024, to let the district know that the student would not be back to school and was coming to pick up personal possessions and drop off school property and the District acknowledged the withdrawal. The finding of Fact 15 shows that the parent was provided paperwork to revoke services on September 25, 2024, and that the parent signed the revocation of services and left. The finding of Fact 16 shows that a Prior Written Notice was provided to the parent on September 25, 2024, to record the parent's decision to revoke special education services. The district stated they would like the student to return to school services and work with the family (Finding of Fact 22). The parent stated that she did not wish to withdraw the student, but her intention was to meet with the district staff to express concern about her Student's safety and was surprised by the district's taking away the student's services (Finding of Fact 18).

Summary and Conclusions

In this case, 92 NAC 51-006.06E does not apply as the student continued to be eligible for special education services. Regarding 92 NAC 51-007.06B, outlining parent notice for meetings it is found that the parent nor district requested a meeting. The parent sent a notice to revoke special education services on September 23, 2024, via a text message to district staff and the district responded. Based on the parent's request, a meeting was not required. Regarding 92 NAC 51-007.06E the parent initiated the student's withdrawal from school services from a special education transition teacher and the investigator believes that the district did not have an obligation to ensure the parent understood what the parent requested. Finally, regarding 92 NAC 51-009.01A and 92 NAC 51-009.01B as the parent requested the revocation of services to the district, this regulation does not apply as there was no need to discuss identification, evaluation, educational placement, or FAPE. Finally, regarding 92 NAC 51-009.08B4 it is found that the parent's text message was a request in writing to revoke consent for the continued provision of special education and related services. It is further found that 92 NAC 51-009.08B4a requires the district to provide a prior written notice documenting the parent's revocation and the district met this requirement.

Based on the above information, the District implemented the requirements of 92 NAC 51-006.06E; 007.06B; 007.06E; 009.01A; 009.01B, 009.08B4, 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.