

## COMPLAINT INVESTIGATION REPORT

**Complaint Number:** 25.26.05  
**Complaint Investigator:** REDACTED  
**Date Complaint Filed:** August 22, 2025  
**Date of Report:** REDACTED

### Introduction

According to the Student's MDT dated May 15, 2023, the diagnoses from the Student's pediatrician REDACTED. The Student had been absent for REDACTED days at the time of the MDT. According to the Student Safety Plan (undated) provided by the Parents, as the Student's current medical information, the Student's diagnoses were: REDACTED.

According to an interview with the Mother, the Parents and their children recently moved to the District and applied for school enrollment in the District on the same day as their home purchase was complete. The Student's IEP from the previous NE school district was dated February 20, 2025, and included the following services: specially designed special education in a pull-out setting, occupational therapy, physical therapy, speech language therapy, behavior intervention plan, and a phased transition plan to increase the Student's time in school that stated that the Student would receive 1:1 nursing when at school.

### Issues Investigated

1. Did the District make the nursing services available to the student to provide FAPE? [34 C.F.R. 300.101(a), 300.17 and 320(a); 92 NAC 51-003.24 and 003.49]

### Information Reviewed by Investigator

#### *From the Complainant*

- Letter of Complaint dated August 20, 2025; received by NDE August 22, 2025
- District Enrollment Application for the Student, dated July 21, 2025
- Student Safety Plan (undated)
- Email from the Principal to the Parents and others dated August 8, 2025, at 10:54 a.m.
- Email from the Mother dated August 8, 2025, at 2:32 p.m.
- Email from the Parent dated September 23, 2025, at 7:23 p.m., received by NDE September 24, 2025
- Email from Nursing Agency 1, dated September 24, 2025, at 1:07 p.m.
- Interview with the Mother on October 4, 2025

#### *From the School District*

- The District's Response to the Complaint, dated September 21, 2025, received by NDE September 23, 2025
- Interview with District on October 3, 2025: Special Education Director, Principal, and Elementary Special Education Coordinator

Issue #	Information Requested	Information Received
1	The name, title, and contact information of the person who will serve as the District's point of contact for this investigation;	Contact information

Issue #	Information Requested	Information Received
1	The Student's most recent MDT	MDT dated May 15, 2023
1	Individualized Education Programs (IEPs) developed for the Student during or for the 2025-26 school year, in place during August 2025	<ul style="list-style-type: none"> <li>• IEP dated February 20, 2025 (conference) from the previous district</li> <li>• Transition IEP dated March 20, 2025, reviewed on August 22, 2025</li> <li>• Positive Behavior Intervention Plan dated August 22, 2025</li> </ul>
1	PWNs, including those showing Student placement, nursing services, and any other communication with parents about Student services and placement	<ul style="list-style-type: none"> <li>• Prior Written Notice (1) dated August 27, 2025, for In-State Transfer</li> <li>• Prior Written Notice (2) dated August 27, 2025, for In-State Transfer</li> <li>• District emails 7-1 to 9-23.zip</li> </ul>
1	Notice of IEP meetings and any other communication showing Parental participation in developing the Student's IHP and involvement in Student placement	<ul style="list-style-type: none"> <li>• Notice of IEP Meeting dated August 21, 2025, for a meeting on August 22, 2025.</li> <li>• District emails 7-1 to 9-23.zip</li> </ul>
1	IHPs for the Student associated with the IEP above	<ul style="list-style-type: none"> <li>• IHP dated July 19, 2024</li> <li>• Physical Request and Plan for Related Health Services dated August 18, 2025</li> </ul>
1	Medical information used to develop the IHP, including outside reports	<ul style="list-style-type: none"> <li>• Seizure Action Plan, illegible initiation month, day, "2023 valid until 12/20/2025"</li> <li>• Nebraska Medicine Pediatric Report dated February 8, 2024</li> <li>• School Daycare Medication Authorization dated June 28, 2024</li> </ul>
1	Communication with Parents regarding the availability of nursing services needed by the student	District emails 7-1 to 9-23.zip
	Additional information provided	<ul style="list-style-type: none"> <li>• District emails 7-1 to 9-23.zip</li> <li>• Nursing Services Agreement (blank, undated)</li> <li>• References for Nursing Agency, undated</li> <li>• Certificate of Liability Insurance dated September 2, 2025</li> <li>• Contract between the District and the Nursing Agency, signed August 27 and 29, 2025</li> </ul>

## Findings of Fact

1. The Parent submitted a District enrollment form for the Student on July 21, 2025 (District Enrollment Application). The Mother and Pediatrician provided the additional information required for completing the Student's enrollment in the District, according to an interview with the Mother (Interview with Parent dated October 4, 2025). The District Response dated September 21, 2025, indicated that the Student's enrollment was completed and the school of attendance assigned as of August 5, 2025.
2. The Student's IEP from the previous district, dated February 20, 2025, included the following statement regarding nursing services: "[Student] will receive 1:1 nursing services when at school."
3. The Student's IEP from the previous district arrived at the District on July 30, 2025, by fax and included extensive health information and special education records for the student (District Response dated September 21, 2025, and Interview dated October 3, 2025).
4. According to the original complaint and interview, the Nursing Agency was providing at-home services to the Student and was already familiar with the Student's care and medical team. (Letter of Complaint dated August 20, 2025; Interview with Mother dated October 4, 2025)
5. The District Response dated September 21, 2025, reported that the District contacted three nursing agencies with existing contracts with the District on August 5, 2025, who did not agree to pick up an additional student's care at that time. The Nursing Agency contacted the District on August 7, 2025, but the District's emails to the Nursing Agency were returned as undeliverable (District Response dated September 21, 2025).
6. The Principal emailed the Parent on August 8, 2025, at 10:54 a.m. to arrange a "meet and greet" for the staff to meet the Student and Parents. This email communicated that the District Nurse and Special Education Elementary and Nursing Coordinator would contact the Parent regarding nursing and IEP services. The "meet and greet" was held on August 11, 2025, at the Students' School, according to interviews with the District and the Mother.
7. The Mother emailed the Principal on August 8, 2025, at 2:32 p.m. to inquire about the next steps to complete any needed paperwork for the Student's nursing services. In an interview dated October 4, 2025, the Mother reported that she attached the Student's Safety Plan to the email. The Student's Safety Plan included the following sections: Primary Diagnosis, General Supervision Guidelines including caregiver responsibilities, Seizure Response Protocol, Equipment Prevention including protocol, Pica Management, Behavioral Concerns and Self Injury including intervention guidelines, Aggression and Property Destruction including strategies, Choking Risk and Feeding Safety including protocols, Medical Concerns including ear infections, constipation, G-tube, and feeding instructions, Fall Risk including prevention, Financial Safeguards and Emergency Contact Information for the Parents, Pediatrician, Palliative Care, Complex Care, Agencies (including the Nursing Agency and Student Nurse), Preferred Hospital and Location of Emergency Documents in Student backpack. The Mother reported in an interview, dated October 4, 2025, that

the Safety Plan represented the most up-to-date information on the Student's health-related conditions and requirements.

8. According to the District response dated September 21, 2025, the District Nurse contacted the Parents by phone to update the Related Health Service Plan on August 8, 2025, and after a "strained conversation," the Mother indicated that the Parents and the Student's nurse would be available to meet on August 11, 2025.
9. According to the District Response dated September 21, 2025, the District updated its inquiries with 5 nursing agencies to provide Student Services on August 12, 2025, noting that the Nursing Agency was in the process of developing a partnership/contract.
10. According to the District Response dated September 21, 2025, the first day of school was August 12, 2025.
11. In an email exchange between the Special Education Director and an NDE Program Specialist dated August 13, 2025, at 9:07 a.m. and August 14, 2025, at 10:45 a.m., the NDE Program Specialist informed the District that the Nursing Agency had met NDE organizational requirements, had LPNs and RNs with appropriate licensure, and the Nursing Agency's rates had been approved.
12. According to the Parents (Letter of Complaint dated August 20, 2025; email dated August 19, 2025, at 5:57 p.m.; Interview with Mother dated October 4, 2025), the District Nurse sent an unaccepted version of the Related Health Services Plan to the Pediatrician for approval on August 13, 2025. The Parent raised concerns regarding the lack of collaboration with the Parents and the inaccuracies in the August 13, 2025, version of the Related Services Plan. Also, the Parent requested that the District immediately assume responsibility for paying for the Student's nursing care during school hours.
13. A transfer IEP meeting was held on August 22, 2025, to discuss the Student's IEP within the District. One change was made to the IEP regarding the transition to school plan in the previous district, and no further changes were made to the IEP. (IEP dated March 20, 2025, reviewed August 22, 2025; PWN (1) and (2) dated August 27, 2025). According to the District Response (dated September 21, 2025) and interview (dated October 3, 2025), the RHSP for the District was discussed at this meeting (Physician Request and Plan for Related Health Services).
14. The District and the Nursing Agency exchanged information via numerous emails to complete the following actions:
  - a. Secure and verify Nursing Agency references. In an email to the Father and the Nursing Agency dated August 21, 2025, at 11:07 a.m., the Coordinator indicated that she had been unable to contact the references provided by the Nursing Agency, and that the Nursing Agency's "rebranding" may have caused errors in communicating with the references.
  - b. Verify availability and nurse interview questions regarding experience with children with disabilities. In an email dated August 27, 2025, at 10:42, the Nursing Agency thanked the District for its follow-up questions and provided information on nurse availability and interview screening questions. The Nursing Agency provided individual nurse resumes to the Director via email on August 29, 2025 (11:20 a.m.). Further exchange of agency information to

finalize arrangements occurred via email dated September 1, 2025, at 7:46 p.m., when the Nursing Agency responded to questions by the District.

- c. Sign the contract to begin services: In an email to the Father dated August 19, 2025, at 10:43 a.m., forwarded to the Coordinator and others on the same day at 12:14 p.m., the Nursing Agency stated that it provided a (blank) draft contract to the District. The Nursing Agreement Contract was signed on August 27, 2025, by the Nursing Agency and on August 29, 2025, by the Special Education Director on behalf of the District (Contract Document).
- d. Secure insurance information: In an email to the District dated September 2, 2025, at 5:40 p.m., the Nursing agency stated that their insurance information had been updated and attached the Certificate of Liability Insurance.
- e. Secure current orders from the Pediatrician: In an email dated September 3, 2025, at 11:12 a.m., the Nursing Agency provided nursing orders that the Agency currently possessed to the Special Education Director. According to the District Response, the Nursing Agency had updated physician orders on September 8, 2025, when the Student attended school for the first time.
- f. Secure approval for nursing coverage from the Parents: In an email dated September 3, 2025, at 5:50 p.m., the Coordinator provided a copy of the RHSP and the current plan from the Nursing Agency to the Parents, notified the Parents that the nurse would be "onboarded" on September 4, 2025, and that the District wanted the Student to attend School on September 5, 2025. The same email stated that the Coordinator would send a copy of the RHSP to the Pediatrician. According to the District Response dated September 21, 2025, by September 8, 2025, the Nursing Agency secured approval from the Parents for the specific nursing coverage for the Student while at school.
- g. Secure a current copy of the Students Related Health Service Plan approved by the Pediatrician: In an email dated September 4, 2025, at 10:01 a.m., the Nursing Agency requested that a current version of the RHSP be sent to the Pediatrician for approval. In an email dated September 4, 2025, at 10:14 a.m., the Coordinator notified the Nursing Agency, Parents, Principal, and Special Education Director that "I sent the plan over a few minutes ago."

In an email dated September 4, 2025, at 7:55 p.m., the Nursing Agency notified the Special Education Director, Coordinator, Principal, and Parents that the Nursing Agency did not have signed orders from the District that had been signed off by the Parents and Pediatrician, without which no nursing care would be provided. A copy of the RHSP was received back with the Pediatrician's approval via fax and in the Student's binder, according to an email from the Nursing Agency to the Special Education Director on September 8, 2025, at 4:05 p.m.

- 15. According to an email from the Special Education Director to the Parents, Principal, and Nursing Agency dated September 4, 2025, at 5:56 p.m., a Nursing Agency nurse was oriented to the school on September 4, 2025, and the Student was invited to attend school the following day, September 5, 2025, with all services in place. Also in the email, the Director stated that the IEP team would be available to meet with the Parents to review their previous requests on September 5, 2025, at the school.

16. However, the Nursing Agency protested that the RSHP, Pediatrician Orders, and copy of the executed contractual paperwork was not in place to allow them to provide the Student's nursing services (District Response dated September 21, 2025 and email from the Nursing Agency to the Special Education Director, the Parents, the Principal, and others dated September 5, 2025, at 9:19 a.m.).
17. The Student attended school on September 8, 2025, with all services in place according to the District Response (dated September 21, 2025) and Mother Interview (dated October 4, 2025).

#### **Issue # 1**

Did the District make the nursing services available to the student to provide FAPE? [34 C.F.R. 300.101(a), 300.17 and 320(a); 92 NAC 51-003.24 and 003.49]

92 NAC 51-007.08 states:

007.08            *Programs for Children who Transfer School Districts or Approved Cooperatives*

007.08A           *Transfer within the same state – If a child with a disability (who had an IEP that was in effect in a previous school district or approved cooperative in Nebraska) transfers to a new school district or approved cooperative in Nebraska, and enrolls in a new school within the same school year, the new school district or approved cooperative (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous school district or approved cooperative), until the new school district or approved cooperative either:*

007.08A1           *Adopts the child's IEP from the previous school district or approved cooperative; or*

007.08A2           *Develops, adopts, and implements a new IEP that meets the applicable requirements of 92 NAC 51-007.*

92 NAC 51-003.24 states:

003.24            *Free appropriate public education or FAPE means special education and related services that are provided at public expense, under public supervision, and direction, and without charge; meet the standards of the state including the requirements of this Chapter; include an appropriate preschool, elementary school, or secondary school education in Nebraska and are provided in conformity with an individualized education program (IEP) that meets the requirements of 92 NAC 51- 007.*

92 NAC 51-003.49 states:

003.49            *Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology*

*and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. Related services do not include a medical device that is surgically implanted (including cochlear implants), the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. This definition does not limit the right of a child with a surgically planted device (e.g., cochlear implant) to receive related services as listed in this definition that are determined by the IEP team to be necessary for the child to receive FAPE or limits the responsibility of a school district to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly.*

#### *Allegations/Parent Position*

According to the original written complaint, the Parents alleged: "We file on behalf of our [child], [Student], who has an IEP and requires nursing care during the school day. Millard Public Schools has denied [the Student] a Free Appropriate Public Education (FAPE) and engaged in impermissible predetermination regarding [the Student's] placement and services. . . [The Student] has been denied the opportunity to attend school because Millard Public Schools claims they cannot find nursing staff. Despite this assertion, the Student currently receives care from two nursing agencies that are approved by the Nebraska Department of Education (NDE) to provide school nursing services. These agencies have qualified nurses available and currently serve [the Student] at home."

In an interview dated October 4, 2025, the Mother stressed that the Parents were very satisfied with the quality of services offered by the District and that the Student was happy to attend school each day. However, the Mother reiterated the emailed statement (email to NDE dated September 23, 2025) that the Parents should not be responsible for paying for the District's error in not promptly acquiring and offering nursing services required for the Student to attend school.

#### *District Response*

In the District's Response dated September 21, 2025, the District stated: "MPS acknowledges that [the Student's] IEP identifies 1:1 nursing as a related service. Nursing services fall within the definition of 'related services' under 92 NAC 51-003.54. From the time of transfer, MPS has made good-faith efforts to secure qualified nursing staff through multiple agencies, including those approved by NDE. Documentation of outreach, contract negotiations, and agency responses is evident. While securing nursing services has delayed implementation, MPS has not refused to provide services. Rather, it has continued to pursue every available option to ensure FAPE is consistent with 92 NAC 51-003.24. In the interim, MPS will prepare to

offer compensatory services to the Student for any lapses in service delivery, consistent with 92 NAC 51-007.02A."

#### *Investigative Findings*

1. Both parties agreed that the Student's enrollment in the District was completed by August 5, 2025, that the first day of school in the District was August 12, 2025, and that the Student's first day of attendance was September 8, 2025. [Findings of Fact 1, 10, and 16]
2. The District acknowledged that the Student's IEP from the previous district was received by the District and that it required 1:1 nursing services. The District scheduled and held a transfer IEP meeting on August 22, 2025, making no changes to this related service and updating the RHSP for implementation in the District. [Findings of Fact 2, 3, 13]
3. The District initiated actions toward creating the District's Related Health Service Plan beginning August 8, 2025, completed the RHSP with the IEP team at the IEP meeting on August 22, 2025, and received confirmation of physician approval for the RHSP on September 8, 2025. The Parent provided information and participated in the RHSP development and finalization [Findings of Fact 6, 7, 8, 12, 13, 14 g]
4. After previously contacting the nursing agencies under the current contract with the District to acquire nursing services for the Student, the District communicated extensively with the Nursing Agency, which was already familiar to the Student and Parents, to reach and implement a contractual agreement with updated physician orders to provide nursing services to the Student. Communication between the District and the Nursing Agency to complete the contractual agreement, check references, ensure insurance, communicate and validate parent and physician approval for the Student's RHSP, ensure current physician orders and parental approval for planned nurses to attend to the Student at school, and provide orientation to the school before the Student attended began on August 7, 2025 and ended on September 8, 2025, the first day the Student attended school. [Findings of Fact 4, 5, 9, 11, 14, 15, 16, and 17]
5. The Special Education Director notified the Parents, Nursing Agency, and School that all services were in place and ready for the Student to attend school beginning on September 5, 2025. [Finding of Fact 15]
6. The Nursing Agency failed to provide a nurse at the District on September 5, 2025, stating they did not have approvals from the Parents and Pediatrician, and subsequently provided required nursing care beginning September 8, 2025. [Finding of Fact 14g, 16, and 17]

#### *Summary and Conclusions*

In this case, various factors delayed the implementation of nursing services needed to allow the Student to attend school. First, nursing agencies with existing contracts with the District failed to agree to provide the needed services, requiring the District to negotiate a new contract to allow payment as well as to delineate the contractor's responsibilities. Second, accurate communication with the Nursing Agency's reference list was impeded by "rebranding," and subsequent clarifications were required to negotiate a detailed contractual agreement. While the Nursing Agency was familiar to the Parents and with the Student's care, the District and Nursing Agency were unfamiliar with each other, having no



history of working together previously. As of September 4, 2025, the District had an assurance by the Nursing Agency of current orders, had provided the current RHSP to the Parents and the Pediatrician, and anticipated that the Student would attend school on September 5, 2025. However, the Nursing Agency did not believe that nursing care could be provided without updated physician orders, further details on the contract assuring payment, and a physician's signature on the RHSP, causing an additional delay of one school day (September 5, 2025).

Based on the facts that, despite its efforts to secure and implement the needed related health services required for the Student to attend school, and that the Student's IEP from the previous district required these services, the District failed to fully implement the requirements of 92 NAC 51-007.08. **Thus, the following corrective action is required.**

### *Corrective Actions*

#### *Reimbursement*

1. The District shall reimburse the Parent for nursing services the Parent obtained during the time the District was not providing services (excluding any days of Student illness that occurred during this period).
2. The Parent will provide the District with an invoice including exact amounts paid for nursing services obtained within 30 calendar days of the date of the Investigation Report.
3. The District will provide reimbursement for all costs in the invoice within 60 calendar days of the date of the Investigation Report.
4. The District will provide evidence to NDE of payment made within 60 calendar days of the date of the Investigation Report.

#### *Compensatory/Recovery Services*

For the period of 17 school days from August 12, 2025, to September 4, 2025, to exclude any days of Student illness that occurred during this period. The district will provide compensatory services for special education and related services specified by the Student's IEP (17 days times 7 hours per day).

1. Student's IEP Team shall convene an IEP Team meeting by November 14, 2025, to develop a mutually agreed upon schedule to provide no more than 119 hours (to exclude any days of illness) of compensatory service. If the district is unable to convince the Parent to attend the IEP Team meeting, the district will document the attempts to contact the parent as required by 92 NAC 51 - 007.06D and hold the meeting without the parent.
  - a. The schedule for the compensatory services shall be modeled on the Student's IEP and school schedule and proportionally reflect OT, PT, and SPL services, special education in the special education setting, and other school experiences. The schedule shall provide nursing services that allow the Student to attend school in the same way the Student would have done if the nursing services had been in place on August 12, 2025.
  - b. The IEP team, including the Parent, shall determine the schedule for which the (up to) 119 hours of compensatory services will be provided.
2. The schedule for compensatory services must be provided to NDE within 10 calendar days of the IEP Team meeting.

3. Compensatory services shall be completed by August 11, 2026. Student absence or refusal of the parent to make the child available shall result in a waiver of service scheduled for that day. Staff absences must be rescheduled. Any compensatory services declined or not used by August 11, 2026, shall be deemed waived (assuming the district has made a good faith effort to timely commence and provide all compensatory services).
4. The District must submit service provider logs verifying completion of all compensatory services to NDE by the last business day of each month until the service is complete, and all services have been verified.

#### Coaching and Mentoring

The Special Education Director is qualified to provide coaching and mentoring based on the prior roles held by the Director and the communications read by the investigator to prepare this report.

1. The Special Education Director will provide coaching and mentoring to any District coordinators, administrators, or staff on the timely onboarding of nursing service agency providers.
2. By October 31, 2025, the District will submit to NDE the coordinators, administrators, and staff to be mentored, the identification of the problems they will work on together, the goals for the coaching, the progress monitoring method, and the schedule for coaching and reviewing progress. The District will submit coaching progress updates to NDE quarterly by December 15, 2025, March 15, 2026, and May 30, 2026.

#### Notice to District

Unless otherwise indicated, the corrective action specified must be completed within sixty (60) calendar days of the date of this report. Documentation must be submitted as soon as possible following the completion of the corrective actions. All documentation of correction must be sent to:

Abbey Cron, Complaint Specialist  
Jordyn Brummund, Complaint Specialist  
NDE Office of Special Education  
[nde.speddr@nebraska.gov](mailto:nde.speddr@nebraska.gov)