



**Frank Edelblut**  
Commissioner

**Christine M. Brennan**  
Deputy Commissioner

STATE OF NEW HAMPSHIRE  
**DEPARTMENT OF EDUCATION**  
101 Pleasant Street  
Concord, N.H. 03301

[REDACTED]

Re: *Special Education Complaint # 22-15*

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-15. Based on the findings of fact in the investigation, I am issuing my written decision as well as providing a copy of the investigator's report.

Below is a description of the allegation, as well as a summary of the investigator's findings of facts based on the evidence submitted by all parties to this matter. If an allegation is substantiated, a finding of noncompliance with special education law, then there will be a corrective action required of the district to remedy any violations of special education law. The corrective action is intended to ensure compliance with IDEA by addressing the needs of the child and the appropriate future provision of services for all children with disabilities.

By way of relevant background, the scope of this investigation is from [REDACTED] through [REDACTED]. During the complaint period, the following Individual Education Plans (IEPs) were valid:

- [REDACTED]; and
- [REDACTED]

[REDACTED]

**Allegation 1- Unsubstantiated**

The first allegation in this matter is that [REDACTED] failed to comply with Ed 1109.03(a), which, in relevant part, provides that:

The LEA shall provide special education, related services, supplementary aids and services, accommodations, and modifications to a child with a disability in accordance with the child's IEP.

Specifically, the complainant asserts that SAU 9 has not followed [REDACTED] IEP during the complaint period, [REDACTED].

Given the scope of the allegation, the investigation looked at the following services, accommodations, and modifications all of which were included in the agreed upon IEPs.

- [REDACTED]

Due to the vast scope of the allegation, a variety of evidence was provided and examined during the investigation. The evidence included, but was not limited to, daily staff notes, student schedules, student progress reports, payroll records, and staff schedules.

The student's schedules as well as the daily staff notes provided by [REDACTED], demonstrated that the student regularly received specially designed instruction in the areas of functional life skills, math, reading, and transition services. IEP progress reports also indicate that progress was made in these areas. The daily staff notes were provided by [REDACTED] and included events and activities of each day. In addition, the [REDACTED] were provided by a special education teacher, whereas the district job description requires a minimum of a certified paraprofessional. As such, given the evidence provided, including daily notes from [REDACTED], the Department is also inclined to believe [REDACTED] services were provided to the student.

The documentation provided during the investigation also included evidence of the accommodations having been implemented. Daily staff notes indicate the student used [REDACTED] and carried it with [REDACTED] throughout the building regularly, with the exception of when [REDACTED] it would remain in the special education classroom until it was [REDACTED] for [REDACTED]

use. The student's progress reports also document progress in goals related to [REDACTED].

Although referred to as [REDACTED] in the IEP, the student and staff members used the term [REDACTED]. The [REDACTED] were built into the student's schedule and the student would also [REDACTED].

As for the modifications, there was email evidence regarding how different subject areas were being modified for the student. The investigation did not yield any evidence to indicate that modifications were not being made when necessary.

### **Allegation 2- Unsubstantiated**

The second allegation in this matter is that [REDACTED] has failed to comply with 34 CFR 300.321(a)(2), which, in relevant part, provides that:

The public agency must ensure that the IEP Team for each child with a disability includes not less than one regular education teacher of the child.

The complainant asserts that [REDACTED] did not include a regular education teacher in IEP team meetings.

There were two separate IEP team meetings which occurred during the complaint period. Meeting notices for both meetings included [REDACTED], a general education teacher, however, this specific individual did not attend the meetings. Rather, another general education teacher, [REDACTED] attended both meetings.

The law requires at least one general education teacher to attend, given that [REDACTED] is also a general education [REDACTED] was able to fulfill that role and meet the requirement for attendance.

### **Allegation 3- Unsubstantiated**

The third allegation in this matter is that [REDACTED] failed to comply with 34 CFR 300.321(b)(3), which, in relevant part, provides that:

To the extent appropriate, with the consent of the parents or a child who has reached the age of majority...the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Specifically, the complainant asserts that [REDACTED] did not invite participants from [REDACTED] to IEP team meetings.

As stated above, there were two separate IEP team meetings which occurred during the complaint period. For the first meeting, a team meeting notice was sent out on [REDACTED] a meeting on [REDACTED]. The team meeting notice included an invite for [REDACTED]. However, although [REDACTED] was invited, [REDACTED] did not attend.

[REDACTED]  
The second team meeting notice was sent on [REDACTED] for a meeting on [REDACTED] and included an invite to [REDACTED] from [REDACTED]. Documentation from the meeting indicates that [REDACTED] attended, as well as another representative [REDACTED].

Although a representative did not attend the first meeting, the district met the requirement to invite them. The district cannot compel an [REDACTED] to attend the meeting. However, the parent could have requested to reschedule if they felt it was necessary for the representative to attend. However, there is no record of such a request.

**Allegation 4- Unsubstantiated**

The final allegation in this matter is that [REDACTED] failed to comply with Ed 1120.03(a), which, in relevant part, provides that:

Parent(s) of a child with a disability shall be notified in writing within a reasonable time, but not less than 14 days, before the LEA proposes to initiate or change, or refuses to initiate or change, the referral, evaluation, determination of eligibility, IEP, or educational placement of the child or the provision of FAPE to the child.

The complaint asserts that [REDACTED] not provide the parent with Written Prior Notice (WPN) following a meeting in [REDACTED] and again in [REDACTED] of the same year.

During the complaint period, the district provided the parent with a written prior notice on three separate instances, however none of the notices were for the meetings in question.

Regardless, a WPN is only needed when there is a proposal to initiate, refuse, or make a change related to a referral, evaluation, eligibility, IEP, or placement during the meetings in question. There was no documentation to indicate a proposal was made, therefore there was not a need for a WPN at either meeting.

Conclusion:

Although these allegations were found unsubstantiated based on the evidence provided, it is not lost on the Department that there is a breakdown in communication between the parent and the district. While it is not entirely clear where that breakdown is, it is important for the student that the parties work together as a team rather than separate entities to create a cohesive collaboration.

There is no corrective action necessary.

We hope that in the future the district and parent will work together to resolve any differences that may arise.

Frank Edelblut  
Commissioner of Education  
NH Department of Education