



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, N.H. 03301

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[REDACTED]
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[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Re: Special Education Complaint # 22-24

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-19. 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 limited to [REDACTED]. The Individual Education Plan, valid [REDACTED]. The following service within the plan is relevant to the allegation:

- [REDACTED]
[REDACTED]

Allegation 1 - Unsubstantiated

The sole 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 ██████████ did not provide a 1:1 paraprofessional during recess on December 9, 2021.

At the time of the complaint, the child's agreed upon IEP provided for ██████████ 1:1 paraprofessional support by a para-educator. The school day is ██████ hours per day, leaving ██████ hours per day without 1:1 support. Prior to ██████████, there was not a designated staff person assigned to the child during recess.

The parent reported to the school that the child had been threatened on ██████████. The following day, a meeting was held to discuss having a 1:1 monitor the child during recess. On ██████████, the parent asked the child if there had a 1:1 with ██████ at recess, in which the child responded "no". At that point the parent decided to keep ██████ child home until the situation could be resolved.

An affidavit provided by the ██████████ indicated he was on the playground ██████████ and was specifically assigned to monitor the child, which he did from afar. The ██████████ observation notes from recess that day were provided as evidence. However, it is the parent's opinion that the 1:1 support should be right beside ██████ child, not watching from afar.

As of ██████████ after the parent filed the complaint, the school has agreed to provide 1:1 paraprofessional support at recess with which the parent is comfortable with. The child has been attending school since then.

It is the parent's perspective that the child should have been receiving 1:1 side by side support for the duration of the school day to begin with. However, the district believed they were providing in excess of what was required by the IEP. It also appears the parties had a different definition of what a 1:1 paraprofessional would look like in practice.

Conclusion:

Although the district was following the IEP by providing ██████████ of paraprofessional support per day there was not a clear understanding for managing the remainder of the school day. There was also no clear definition of what the support looked like in practice— afar versus side by side. These are areas where communication between the parties can be improved. However, the Department's larger concern is the child being or feeling threatened at school. These concerns are not a special education issue and are not meant to be solved through the special education process. It is the Department's opinion that ██████████ should address these concerns according to their school board policies regarding such allegations.

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