



**Frank Edelblut**  
Commissioner

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Deputy Commissioner

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*Re: Special Education Complaint # 22-27*

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-27. 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] [REDACTED]. The following Individual Education Plans (IEPs) and amendments, as set forth below were valid during the complaint period:

- IEP 1, valid [REDACTED] (most recently agreed upon IEP), amended and signed by the parent on [REDACTED]:
  - Services to be provided at a private day school;
- Amendment 2, valid [REDACTED], signed by the parent on [REDACTED]:
  - Services to be provided in a regular education setting [REDACTED]

**Allegation 1- Substantiated**

The first allegation in this matter is that the [REDACTED] District 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 the [REDACTED] District has not provided the required academic tutoring between [REDACTED]

By way of relevant background, the complaint period for this specific allegation includes one IEP, which was amended by agreement on [REDACTED]. The IEP required tutoring services to be provided with placement to occur at [REDACTED] while the IEP team continued to look for a day program placement.

The student attended [REDACTED] for tutoring services, as provided for by the IEP, until [REDACTED], at which time [REDACTED] felt that it was no longer able to meet the student's needs and terminated the services immediately. Given the sudden termination of services, the district did not have an alternate placement for the student to attend, therefore the student has remained at home since leaving [REDACTED]

There is no documentation to indicate that the district had a meeting to discuss the change of placement in accordance with Ed 1124.02<sup>1</sup> to homebased services, nor to determine how those services were to be provided in accordance with the IEP or 34 CFR 300.530(d)(1)(i).<sup>2</sup>

While the student has been provided with counseling and vocational instruction during the time in question, both the parent and district are in agreement that the student has not been provided any academic instruction. From the evidence gathered in coordination with the school district, it is clear the student has been denied access to a Free and Appropriate Public Education.

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<sup>1</sup> When a child with disabilities has been removed from the child's current placement for more than 10 days in a school year, in addition to providing services necessary to enable the child to continue to participate in the general education curriculum, as provided in 300.530(d)(1)(i), the LEA shall provide service necessary to provide the child with a disability an opportunity to progress in the general education curriculum consistent with the child's IEP. Such services, if provided at the child's home, shall consist of: (a) a minimum of 10 hours/week of instruction, including special education as specified in the child's IEP; and (b) related services as specified in the child's IEP.

<sup>2</sup> A child with a disability who is removed from the child's current placement pursuant to [paragraphs \(c\), or \(g\)](#) of this section must -  
(i) Continue to receive educational services, as provided in [§ 300.101\(a\)](#), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP

**Allegation 2- Substantiated**

The second allegation in this matter is that the [REDACTED] District failed to comply with Ed 1109.06(d), which, in relevant part, provides that:

The LEA, annually, shall conduct at or near the end of the term of each IEP, a meeting for the purpose of assessing the effectiveness of the present plan and to design an IEP, including extended school year services when appropriate.

The complainant asserts that the [REDACTED] District has not had an annual IEP meeting for the IEP which ended on [REDACTED]

As mentioned above, the student had an IEP which was to expire on [REDACTED]. The district stated that a meeting occurred in [REDACTED], at which the Team agreed to extend the current IEP, while looking for an out-of-district placement for the student. Throughout the investigation, it was discovered that the district created an IEP, which was never signed by the parents and listed a meeting date of [REDACTED], which was a Saturday. However, the district was unable to provide any documentation related to the meeting, the newly drafted IEP, nor the proposal to extend the current IEP. As such, it is difficult to ascertain that a meeting did in fact occur.

**Conclusion:**

In this case it is apparent that the [REDACTED] failed to provide a Free and Appropriate Public Education (FAPE) to the child. The fact the district acknowledged the lack of instruction, demonstrated an awareness of the denial of both regular and special education. Although, the Department recognizes the efforts of the district to find the student a suitable placement to no avail, that does not rid the district of their responsibility to provide the student with an education in the meantime.

It is also clear that the district did not maintain appropriate student records in this case and that policies and procedures were not followed in accordance with state and federal requirements including regulations relative to the scheduling and conduct of an IEP meeting. As such, the Department would like to see the student provided with the education that the federal and state law affords him at the responsibility of the school district.

Corrective Action:

The [REDACTED] District will provide training to all special education staff regarding the special education process. In addition, the district will provide training to all special education staff regarding appropriate documentation procedures. Evidence of this corrective action must be submitted to the Department of Education, 25 Hall Street, Concord, NH 03301 by [REDACTED]

The [REDACTED] District will conduct a team meeting to discuss how much compensatory services are needed and how they will be provided to the student. Evidence of this corrective action must be submitted to the Department of Education, 25 Hall Street, Concord, NH 03301 by [REDACTED].

The [REDACTED] District will conduct a team meeting to create a plan of how the student will be provided with FAPE while awaiting acceptance into an out of district placement.



Evidence of this corrective action must be submitted to the Department of Education, 25 Hall Street, Concord, NH 03301 by [REDACTED].

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