



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 22-29

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-29. 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 allegation is limited to a mathematics service in an amended IEP dated [REDACTED], signed in agreement by the parents on [REDACTED].

- Mathematics—Specially Designed Instruction by a special education teacher, 3 sessions of 30 minutes per week in a special education setting [REDACTED]

Allegation 1 - Substantiated

The sole 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 [REDACTED] has not provided the specially designed math instruction 3 times a week for 30 minutes as required by the IEP during the [REDACTED] school year.

By way of relevant background, the parent emailed the case manager and special education coordinator on [REDACTED], regarding a comment her daughter made about only leaving the classroom for math when she did not understand a concept. The parent was confused by this as the IEP states that her daughter was supposed to receive all of her specialized math instruction in a separate setting. There is no documentation to indicate that the district responded to the parent's concern.

Having not heard back, the parent emailed again on [REDACTED], after her daughter came home and expressed how helpful it was to go with the teacher that day. This led the parent to conclude that the pull-out mathematics instruction had not been occurring as required. There is no evidence to indicate that the district responded to this communication either.

The parent contacted the district a third time on [REDACTED], expressing her continued concern about the math instruction and the lack of response from the district regarding previous emails. That same day, the special education coordinator responded to the parent and stated they would provide 10 extra sessions to make up for the lack of properly delivered services. The parent did not accept this response due to concern that the district did not provide as many as 60 sessions or more as required in the IEP. The parent also requested a meeting with the director of student services for the district.

A meeting was held on [REDACTED], at which time the district admitted the mathematics instruction had been provided in the regular education classroom and not in the special education setting as required by the IEP. Upon receipt of the complaint and communication with the parent, the district proactively created a corrective action plan to address the situation. The following items were included in the resolution with the parent:

- IEP team members were informed and in agreement that the IEP must be implemented as written
- The new IEP will be amended to include additional math instruction;
- Progress Monitoring data related mathematics will be gathered at 2-week intervals;
- The IEP team will reconvene in [REDACTED] to discuss math placement and ESY as well if there is a need for additional compensatory services;
- A transition meeting will occur to ensure a smooth transition into [REDACTED] grade;
- The district will develop and train all special education teachers to ensure understanding of IEPs and service delivery components and that they are implemented as written.

The parent was in agreement of the corrective actions but also wanted to ensure that the complaint with the New Hampshire Department of Education was completed and documented.

Conclusion:

One of the goals of special education is to educate students in the Least Restrictive Setting (LRE) with non-disabled peers. However, if the IEP team determines that a child needs a setting other

[REDACTED]

than the general education classroom, it should be followed with integrity. It is important that educators and service providers understand and implement the services in the settings which are identified within IEPs to ensure the child is able access a Free and Appropriate Public Education (FAPE). In addition, transparency between school and home is critical in fostering positive and effective communication in the best interest of the child. This is an area the district could improve on going forward.

Although the Department is pleased with the proactive corrective action plan the district created with the parent, it is not lost that the situation could have been solved without state involvement had the parents original concern been addressed in a timely manner.

Corrective Action:

The Department recognizes the actions already proposed by the district in collaboration with the parent as sufficient corrective action related to the student's provision of FAPE.

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