



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

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

June 14, 2022

Joanne Grobecker- Parent

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 22-35

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-35. 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.

The scope of this investigation pertains to Individual Education Plan (IEP) team meetings that occurred on [REDACTED]. There were two valid IEPs during the respective dates:

- IEP 1, valid [REDACTED], signed in consent by the parent on [REDACTED]; and
- IEP 2, valid [REDACTED], signed in partial consent by the parent on [REDACTED],
 - A reading goal was added on [REDACTED] and consented to by the parent.

Allegation 1- Unsubstantiated

The sole allegation in this matter is that the [REDACTED] District failed to comply with 34 CFR 300.613(a), which, in relevant part, provides that:

Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP.

Specifically, the complainant asserts that the [REDACTED] District did not provide her with the IEP progress reports that were requested prior to meetings on [REDACTED].

By way of relevant background, the child had a different IEP which was valid during each of the respective meetings in question. However, both IEPs contained the same method for reporting progress to the parents, specifically that the parent would receive IEP progress reports at the same time as the grade period report cards. According to the school district, the child would have received her report card on [REDACTED], subsequently receiving her progress reports on the same dates.

[REDACTED] Meeting

The IEP team had scheduled a team meeting for [REDACTED], to discuss a new IEP since the current one was set to expire the following month. On [REDACTED], the parent requested the official progress report ahead of the meeting and felt it was necessary information to be an active participant in the meeting. As the law states, the parent does have the right to the information the district is gathering. However, in this case, the parent had requested a specific document that did not yet exist and was not expected until [REDACTED]. The district is not required to provide documents that do not exist.

The Department agrees the parent should have relevant IEP information to make informed decisions for the child's special education, in this case that could have been current teacher data relevant to the IEP goals.

The district did attempt to provide the progress report ahead of time, but it was not provided until after the meeting.

[REDACTED] Meeting

The parent had requested a meeting to discuss the progress of a goal which was recently added to the IEP on [REDACTED]. A meeting was scheduled for [REDACTED]. On that day, the reading specialist emailed the parent and team members to let them know that she would not be able to attend but included a detailed summary of what she had planned on sharing at the meeting, including current progress related to the goal. Upon learning of the reading specialist's absence, the parent requested that the meeting be rescheduled to a date the reading specialist could attend.

The new date was [REDACTED] which was after the report cards and progress reports were sent home. The progress report the parent received on [REDACTED] was missing the progress related to the goal that was to be discussed in the upcoming meeting. The parent informed the district of

██████████
the missing goal, and it was discovered to be a technical error related to the NHSEIS (New Hampshire Special Education Information System) due to the addition of the new goal in February. The district contacted the New Hampshire Department of Education for assistance and was able to correct the error. The parent received the complete progress report on ██████████, after the meeting.

Although, the parent received the progress report after the meeting, there is no denial of FAPE (Free and Appropriate Public Education) since the missing information had previously been provided by the reading specialist in the progress email sent on ██████████.

Conclusion:

The Department understands and respects that the parent would like documents prior to participating in the IEP meetings and that is not only their right but a best practice. However, the district cannot be expected to provide documents that do not yet exist. As such, even when a specific document does not exist, the parent may still request the current data related to the IEP goals, with the understanding that it is still in progress.

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