



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

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

[REDACTED]

Re: Special Education Complaint # 22-38

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-38. 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 is from [REDACTED]. During this time period, there was one relevant Individual Education Plan (IEP) in place, dated [REDACTED], signed in consent by the parent on [REDACTED].

Allegation 1 - Substantiated

The first allegation in this matter is that the [REDACTED] failed to comply with Ed 1107.01(d), which, in relevant part provides that:

For reevaluations, the evaluation process shall be completed within 60 days after the receipt of parental consent to evaluate.

Specifically, the complainant asserts that she requested a reevaluation on [REDACTED], but it had not occurred as of [REDACTED]

By way of relevant background, the student was a [REDACTED] grader who had been attending [REDACTED] as a resident of [REDACTED]. The student was receiving supports and services through an IEP, which was managed by the [REDACTED] as part of an agreement with the [REDACTED]. In sum, although [REDACTED] was implementing the IEP, [REDACTED] remained the school district of liability.

On [REDACTED], the parent requested that the student's 3-year evaluation be completed prior to the scheduled evaluation date of [REDACTED]. That same day, the IEP team, with [REDACTED] approval, agreed to move forward with the evaluation. A planning meeting was scheduled for [REDACTED] but was cancelled due to a snow day. Before the planning meeting was rescheduled, the parent notified the [REDACTED] IEP team that they, the parents, had decided to place their child in the [REDACTED], which effectively ended the [REDACTED] responsibility for the student's special education. The parent contacted [REDACTED] as the district of responsibility¹ to inquire on how to move forward with the evaluation. The parent never received a response from [REDACTED]—a fact that was not disputed by the School District.

Due to a series of events, including a lack of response on behalf of [REDACTED], as well as staffing difficulties, the planning meeting never occurred and subsequently, the evaluation was not completed in a timely manner. [REDACTED] has accepted responsibility for this error and have provided documentation regarding the steps to remedy the situation.

Allegation 2- Substantiated

The second allegation in this matter is that the [REDACTED] District failed to comply with 34 CFR 300.324(b)(1)(ii)(D), which, in relevant part provides that:

Each public agency must revise the IEP, as appropriate, to address the child's anticipated needs.

The complainant asserts that the [REDACTED] District did not update her child's IEP as requested, to address the anticipated needs with attending a public charter school.

[REDACTED], did not dispute this allegation and has since contracted with the [REDACTED] to continue to manage the student's special education needs going forward.

¹ RSA 194-B:11(III)(C) (c) Consistent with section 5210(1) of the Elementary and Secondary Education Act and section 300.209 of the Individuals with Disabilities Education Act, when a parent enrolls a child with a disability in a chartered public school, the child and the child's parents shall retain all rights under federal and state special education law, including the child's right to be provided with a free and appropriate public education, which includes all of the special education and related services included in the child's IEP. The child's resident district shall have the responsibility, including financial responsibility, to ensure the provision of the special education and related services in the child's IEP, and the chartered public school shall cooperate with the child's resident district in the provision of the child's special education and related services.

[REDACTED]

Conclusion:

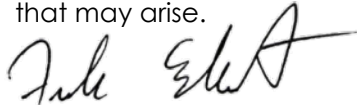
The Department recognizes the confusion that may occur when a student resides in a district without a high school and then enrolls in a public charter school. However, the district is responsible for providing special education to any students who reside within the district and attends a public charter high school regardless of whether [REDACTED]
[REDACTED] It is up to the district to determine how those supports are managed.

Corrective Action:

The [REDACTED] District will convene an IEP team meeting to determine if there is a need for compensatory education during the time the student was not receiving special education while enrolled at the Ledyard Charter School. Evidence of the corrective action must be submitted to the Department of Education, 25 Hall Street, Concord, NH 03301 by [REDACTED]

The [REDACTED] District will review their internal policies related to special education responsibility and revise, if necessary, to ensure compliance with state and federal requirements. 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