



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 # 22-40

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-40. 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 allegations are based on concerns stemming from the [REDACTED] time period. The complaint was filed by the parents of the student, [REDACTED]

¹ Ed 1120.01 Applicability; Transfer of Rights.

(b) The rights of parents under Ed 1100 shall be transferred to children with disabilities who are emancipated minors or who have attained the age of 18 years and have not been adjudicated incompetent consistent with the provisions of 34 CFR 300.320(c) and 34 CFR 300.520.

Allegation 1- Substantiated

The first allegation in this matter is that the [REDACTED] District failed to comply with 34 CFR 300.303(b)(2), which, in relevant part, provides that:

A public agency must ensure that a re-evaluation of each child with a disability must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

Specifically, the complainant asserts that the [REDACTED] District should have completed the student's 3-year evaluation prior to [REDACTED]. The school district did not dispute this allegation and conceded that the evaluation did not occur as required. In fact, the evaluation was conducted during the [REDACTED], [REDACTED]

Allegation 2- Substantiated

The second allegation in this matter is that the [REDACTED] District failed to comply with Ed 1103.02(a), which, in relevant part, provides that:

The LEA shall ensure that the parent or parents of the child with a disability receive a written notice no fewer than 10 days before an IEP meeting.

Specifically, the complainant asserts that the [REDACTED] District did not provide the student with written notice prior to an IEP team meeting on [REDACTED]. There was no record of any meeting notice for the meeting which did, in fact, occur on [REDACTED]. The district did not dispute the lack of evidence.

Allegation 3- Substantiated

The third allegation in this matter is that the [REDACTED] District failed to comply with 34 CFR 300.321, which, in relevant part, provides that:

General. The public agency must ensure that the IEP Team for each child with a disability includes -

- (1) The parents of the child;
- (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- (4) A representative of the public agency who -
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the general education curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the public agency.
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) Whenever appropriate, the child with a disability.

Specifically, the complainant asserts that the district did not have all the necessary members at the IEP team meeting on [REDACTED]

The minutes for the [REDACTED] team meeting confirmed that only the adult student and the special education teacher were present at the meeting. There were no records of team meeting excusals to permit the absence of the required team members. Once again, the district did not dispute these facts.

Allegation 4- Unsubstantiated

The final allegation in this matter is that the [REDACTED] District failed to comply with 34 CFR 300.504, which, in relevant part, provides that:

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year.

Specifically, the complaint asserts that the adult student did not receive a copy of the Procedural Safeguards at the team meeting on [REDACTED]. Email evidence shows that the necessary document was provided to the student on [REDACTED]. In fact, the student provided an electronic signature which acknowledged receipt of the document in question on [REDACTED].

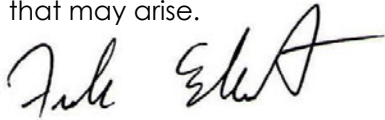
Conclusion:

Special education is guided by specific procedures as outlined in federal and state regulations. When those procedures are not followed, errors occur, as highlighted in this situation. The Department is aware that the evaluation was completed, albeit, after the required timeframe, but prior to the filing of the complaint. Additionally, the [REDACTED] District was forthcoming and accepted responsibility for the errors which occurred. The Department of Education hopes that the district is able to use this as an opportunity to identify and rectify the issues which occurred in order to prevent similar issues in the future.

Corrective Action:

The [REDACTED] District will train appropriate staff on the policies and procedures related to Meeting Notices, [REDACTED]. Evidence of this corrective action must be sent to The New Hampshire 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