



**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 # 23-01*

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-01. 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, an initial Individual Education Plan (IEP) dated [REDACTED] [REDACTED] was signed in partial agreement by the parents on [REDACTED]. Although there were amendments made to the IEP during the complaint period, the services within the IEP remained unchanged. The aforementioned services were as follows:

- Executive Functioning Skills by a special education teacher, 3 times per week for 15 minutes in the regular education setting;
- Occupational Therapy by an OT, 30 sessions per year for 30 minutes in a special education setting;
- Speech Pathology- Group by a speech language specialist, 15 sessions per year for 30 minutes in a special education setting;

- Speech Pathology- Group by a speech language specialist, 15 sessions per year for 30 minutes in a regular education setting; and
- Team Consult with case manager, related services, and teachers, 1 session per month for 15 minutes.

**Allegation 1- Substantiated**

The sole allegation in this matter is that [REDACTED] 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] did not implement the student's IEP between [REDACTED]

The student was found eligible for special education and an IEP was proposed to the parents for consent on [REDACTED]. Although the dates on the IEP were for [REDACTED], the parents did not provide consent for the services until [REDACTED]. Given that this was an initial IEP, services could not begin until parental consent was provided. As such, the complaint time period is limited to the date of the consent, [REDACTED].

The initial complaint did not specify which services were not provided. Therefore, the investigation examined all of the services which required direct instruction with the student—executive functioning skills, occupational therapy, and speech therapy—and are set forth below:

Executive Functioning Skills

The IEP states that the student would receive specially designed instruction for executive functioning skills by a special education teacher, 3 times per week for 15 minutes in the regular education setting.

The special education teacher provided a copy of her daily schedule which indicated that the services were provided on Tuesdays and Thursdays at different times during the day. The IEP does not specify how many days a week the service was to be provided, rather it states how many times per week. Although it may be assumed that the student would receive the instruction 3 different days per week, it is not specified that way in the IEP. Regardless, the teacher's daily schedule does not provide evidence of the provision of service. Additionally, there is no evidence in the form of notes or logs to indicate that the service was ever provided.

Occupational Therapy

The IEP states that the student would receive occupational therapy by an OT for 30 sessions per year for 30 minutes each in a special education setting.

The district provided documentation of the occupational therapy sessions. The district provided 12 OT sessions between [REDACTED]. However, 3 of those sessions were provided prior to

the parent having provided consent. There were 9 sessions provided during the complaint period. Given the way that the IEP was written—with times per year rather than by week, it is reasonable to expect that the student would receive on average of 3 sessions per month, which is what the services amounted to during the complaint period.

Although there was evidence the services were provided, there was limited evidence to indicate what was done during the sessions, which is what the parent was looking for.

#### Speech Pathology

The IEP states the student is to receive speech therapy in a group setting by a speech language specialist, for 15 sessions of 30 minutes per year in both the regular education and special education setting.

The speech language specialist provided an email with vague information regarding some topics that were covered in sessions. However, there was no evidence detailing the dates, times, or frequency of the sessions to support the provision of services. The district noted that the speech services were sporadic due to scheduling issues.

#### **Conclusion:**

The district lacks a clear method for record keeping and implementation of IEP services. Once partial consent was provided by the parents, the services should have begun and been documented accordingly. If there were scheduling issues which prevented the services from being delivered or provided as required by the IEP, the parents should have been included in the conversations and a plan created to ensure the missed services were provided when possible. Additionally, the way the services were written into the IEP makes it difficult to determine with what consistency the services were provided within the child's daily schedule.

#### **Corrective Action:**

The [REDACTED] District will convene an IEP team meeting to determine the amount of compensatory services that are needed and how they will be provided. 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 IEP implementation and documentation and provide training to all special education service providers to ensure compliance with federal and state regulations. 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