



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 # 23-05

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-05. 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 student attended school in [REDACTED] through [REDACTED] grade and enrolled in online school from [REDACTED] in [REDACTED] grade. The student did not complete [REDACTED] grade. In [REDACTED], the student was enrolled in [REDACTED].

Allegation 1-Unsubstantiated

The sole allegation in this matter is that the [REDACTED] District failed to comply with Ed 1107.04(b), table 1100.01, which, in relevant part provides that the following assessments are performed by qualified examiners to determine Other Health Impairment:

Academic Performance	Associate School Psychologist Certified Educator Guidance Counselor Psychologist S.A.I.F. School Psychologist
Health	Professional Licensed to provide a Health Evaluation

Specifically, the complainant asserts that the [REDACTED] District did not provide the health assessment required to determine whether the student is or is not a student with a disability under Other Health Impairment.

[REDACTED] District received a special education referral request on [REDACTED], from [REDACTED] the student's general education teacher at [REDACTED] with concerns regarding Other Health Impairment. A meeting to discuss the referral was held on [REDACTED]. At that time the IEP team had agreed to move forward with the evaluations to determine whether the student was eligible for special education. The parent consented to the following evaluations on [REDACTED]:

- Academic- Psychologist;
- Adaptive Behavior- Psychologist;
- Health- Parent will obtain input from medical health professional;
- Hearing- Parent will ask Physician to screen;
- Intelligence- Psychologist;
- Motor Ability- Occupational Therapist;
- Observation- Certified Educator;
- Social/ Emotional- Psychologist.

The team met on [REDACTED] to discuss the results of the evaluation. The parent did not yet have input from a medical professional. At that time it was determined that the information provided in the psychological and academic evaluations was inconclusive in determining eligibility under Other Health Impairment and that more information was needed— health assessment.

There is no evidence indicating the parent was required to absorb the cost of the health evaluation.

Conclusion:

The parent had agreed in writing to obtain input from a medical health professional, meaning the district did not need to. Had the parent not agreed to seek input from a medical health individual then the district would have been responsible. It is also understandable that given the child's history and the exclusions under the Individual with Disabilities Education Act (IDEA) 34 CFR 300.306(b)(i)¹, an eligibility determination would be difficult without the input from a medical health professional. As of this date the child has been determined to be eligible for special education, the Department hopes that the child will be provided with the appropriate supports and services to progress as a learner.

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

¹ 34 CFR 300.306 ***Special rule for eligibility determination.*** A child must not be determined to be a child with a disability under this part -

(1) If the determinant factor for that determination is -

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act (December 9, 2015));

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency