



**Frank Edelblut**  
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STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
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[REDACTED]

[REDACTED]

[REDACTED]—Superintendent, SAU 37  
20 Hecker Street  
Manchester, NH 03102

[REDACTED]—Chief Student and Wellness Officer, SAU 37

*Re: Special Education Complaint # 23-12*

Dear [REDACTED],

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-12. 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 fact based on the evidence submitted by the parties. If an allegation is substantiated, finding of noncompliance with special education law, then there will be a corrective action required of the district to remedy any violations. The corrective action is intended to ensure compliance with IDEA by addressing the needs of the child and appropriate future provision of services for all children with disabilities.

By way of relevant background, the scope of this complaint investigation is from [REDACTED] [REDACTED]. There was one Individual Education Plan (IEP) in place during this time, dated [REDACTED] signed in consent by the parent on [REDACTED].

**Allegation #1:** Substantiated

The sole allegation in this matter is that the Manchester School District 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.

[REDACTED]

Specifically, the complainant asserts that the Manchester School District has not provided the [REDACTED] since the start of the [REDACTED] school year.

The following services in the IEP are related to the complaint:

- | [REDACTED]
- | [REDACTED]

[REDACTED] of the Manchester School District did not dispute the allegations and acknowledged that the [REDACTED] were not provided due to being unable to fill the position. The district has provided evidence of good faith efforts to fulfill the empty positions, including ongoing communications with [REDACTED] agencies as well as the parents, beginning as early as [REDACTED]

As of [REDACTED], a [REDACTED] is providing the [REDACTED] within the school day. Unfortunately, the way the IEP is written, it does not specify that [REDACTED]. However, the [REDACTED] services in the IEP are written for an 8-hour school day, which is more than the standard 6.5-hour school day. Although not explicitly stated, it could be argued that the time in excess of the school day [REDACTED].

The Department is familiar with the staffing shortages that are impacting education nationwide, which also seems to have a larger impact on our most vulnerable learners. The Department also recognizes the efforts that Manchester School District has made to fill the empty positions. With that said, the parties are encouraged to be flexible and creative when possible so that all students have continued access to the Free and Appropriate Public Education (FAPE) that they are entitled to.

#### Corrective Action Required

- An IEP team meeting will be held to discuss:
  - Whether there is a need for compensatory services for any school the student may have missed due to [REDACTED];
  - Ensure that the IEP reflects the appropriate needs related to [REDACTED]; and
  - Create a plan to ensure the student is not denied FAPE when staffing impacts [REDACTED] access to school.

Evidence of corrective action must be submitted on, or before, [REDACTED] to New Hampshire Department of Education, Attn: Special Education Complaints Office, 25 Hall Street Concord, NH 03301.

We hope that in the future the district and parent are able work together to resolve any differences that may arise.

Frank Edelblut  
Commissioner of Education  
NH Department of Education