



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 # 23-16*

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-16. 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 allegation timeframe is [REDACTED]. During this time there were two relevant Individual Education Plans (IEP) in place.

- IEP 1, [REDACTED], amended [REDACTED] and signed in consent by the parent on [REDACTED]; and
- IEP 2, dated [REDACTED], and signed in consent by the parent on [REDACTED]

Allegation 1 - Unsubstantiated

The sole allegation in this matter is that the School District failed to comply with Ed 1109.03(a), which, in relevant part provides that:

[REDACTED]

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.

The complainant asserts that the child's speech services were not provided in accordance with the IEP between [REDACTED] and when the speech therapist returned on [REDACTED].

Both IEPs contain provisions for the following speech therapy services:

- Speech Pathology Group, by Speech Language Pathologist, 20 sessions per school year of 30 minutes, [REDACTED]; and
- Speech Pathology Group, by Speech Language Pathologist, 40 sessions per school year of 30 minutes, [REDACTED].

The student was provided 6 speech sessions and was absent for the 7th session during the month of September, leaving 13 speech sessions to be provided by [REDACTED].

The district provided a copy of an email sent on [REDACTED], prior to the complaint period, informing parents that the speech language pathologist [REDACTED] and that a substitute provider would begin providing remote services on [REDACTED], with missed sessions being made up. The parents claimed they did not receive that email.

Another email was sent by the district on [REDACTED], to let the parents know that they were still attempting to find a substitute but that all services would be made up. Unaware of the original email, the parents met with the Superintendent to discuss their concerns regarding the lack of notification or implementation of the speech services. The parents mentioned that [REDACTED] was also seeing an outside speech therapy provider and the superintendent suggested having that person provide extra services to account for the missed sessions at the school district's expense. The parents agreed with the suggestion and the private provider increased the frequency of the outside therapy sessions to accommodate the additional needs. Between [REDACTED] [REDACTED] the district reimbursed for a total of 24 sessions of 45 minutes (the equivalent minutes of 36 sessions in the IEP). The student also began receiving services again on [REDACTED] when the speech language pathologist returned [REDACTED].

In totality, the student received 2,130 minutes of speech services, during a time frame where the IEPs required only 1,800 minutes total of speech services. Though not provided during [REDACTED] [REDACTED], the student received more than what was required by the IEP. The way the IEPs were written did not specify how often the speech therapy groups would occur, but rather how many would occur during a long period of time. The Department recommends against this practice as it does not guarantee continual access to a Free and Appropriate Public Education (FAPE). In the future, the Department urges the district to consider a different model when determining service frequency.



Conclusion:

The Department recognizes the parents' attentiveness to their child's needs and their willingness to proactively problem-solve to utilize an already-in-place, outside resource to ensure that their child's services were provided. However, the Department is unable to make a determination in which it speculates that the district would have failed to provide the services in question, given that the relevant communications demonstrated the district's intention to fulfill the terms of the IEP. In addition, we do hope the district will consider the concerns of the parents brought forth in this complaint when communicating with families regarding staffing shortages and missed services in the future.

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