



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, N.H. 03301

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[REDACTED]

[REDACTED]

Re: Special Education Complaint # 23-20

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-20. 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 information, the student had one Individual Education Plan (IEP) in place during the complaint period, which was as follows:

- IEP dated [REDACTED], signed in consent by the parent on [REDACTED] and amended on [REDACTED] with a beginning amendment date of [REDACTED].

For purposes of this complaint, the agreed upon IEP and the amendment both provided that the student would have the following paraprofessional support:

- Shared support in science/social studies by a paraeducator, 5 times per week for 90 minutes in a regular education setting.

Allegation 1- Unsubstantiated

The first allegation in this matter is that the 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.

The complainant asserts that the [REDACTED] District has not provided all the services in the student's IEP within the complaint period. Specifically, the complaint was from [REDACTED] and was only related to the shared paraprofessional support in the areas of science and social studies.

The [REDACTED] school year began on [REDACTED]. On [REDACTED], an email was sent by the Director of Special Education for the middle school, to inform the parents that the district was experiencing a staffing shortage related to paraeducators and that their child did not currently have paraeducator support. The email also informed parents that while looking for the paraeducator, their child would be provided extra support from the special education teacher to support the concepts being taught in science and social studies.

The district was able to hire a paraeducator, who began providing shared support services on [REDACTED]. Therefore, the student was without the requisite support for 23 school days. Although the district admittedly was unable to fulfill the shared paraeducator support required in the IEP during that time, it did provide alternative support through the special education teacher.

Conclusion:

The Department is aware of the staffing shortages facing schools, especially for paraeducators. In such situations, the Department always recommends problem solving to ensure that the student is able to access a Free and Appropriate Public Education (FAPE) in the meantime. It appears that the school attempted to compensate for the absence of the paraprofessional by using the special education teacher to reinforce the concepts. Given the particular facts and circumstances of this case in conjunction with the district's use of a special education teacher to supplement the paraeducator support, there is no indication that the student was denied access to a Free and Appropriate Public Education (FAPE).

No corrective action is necessary.

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