



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 # 23-22

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-22. 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 has an Individual Education Plan (IEP) dated [REDACTED] which was 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 34 CFR 300.321(a)(6), which, in relevant part provides that:

The public agency must ensure that the IEP Team for each child with a disability includes, at the discretion of the parent of the agency, other individuals who have knowledge or special expertise regarding the child.

Specifically, the complainant asserts that the district denied their right to invite the paraeducator to a meeting regarding an incident that occurred on [REDACTED].

An IEP team meeting was scheduled for [REDACTED], as a progress review meeting. The parent had requested that the student's paraeducator attend as a member of the IEP team who had knowledge of the student. The district stated the paraeducator would not attend as they did not have coverage for the student, and it was not within their practice to include paraeducators in IEP meetings. As such, the parent requested the meeting be rescheduled, the district agreed, and the meeting was then scheduled for [REDACTED]. Once again, the parent requested the paraeducator to attend and the district had the same response as the original request. The parent cancelled the [REDACTED] meeting and shared with the district that she wanted the paraeducator at the IEP meeting to discuss a bullying concern. At that time the parent was redirected to the vice principal to follow the bullying protocol as bullying would not be addressed through the special education process.

Conclusion:

Given the series of events, there are actually two points to address: the allegation is unsubstantiated only because the reason for the meeting and paraeducator's attendance was unrelated to special education, therefore was not a denial of a Free and Appropriate Education (FAPE). However, as permitted in IDEA, paraeducators are considered others who have knowledge of the student and must be included at the discretion of the parent or district. IDEA does not dictate whose discretion would prevail should there be a disagreement with the paraeducator's attendance. In addition, the Department is well aware of the staffing shortages facing districts and understands that paraeducator attendance for the duration of an IEP meeting may not be reasonable. However, that does not mean that there could not be a way for a paraeducator to attend briefly on occasion at the parent's request and have a different team member step out to stay with the student. Of course, it is not reasonable nor expected to have all paraeducators attend all IEP meetings, however there will be times that it may need to be accommodated.

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