



**Frank Edelblut**  
Commissioner

**Christine M. Brennan**  
Deputy Commissioner

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

[REDACTED]

*Re: Special Education Complaint # 23-25*

Dear [REDACTED],

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-25. 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, there were two Individual Education Plans (IEPs) and one amendment during the complaint period:

- IEP 1, [REDACTED], signed by the guardian on [REDACTED];
- IEP 2, [REDACTED], signed in agreement by the guardian on [REDACTED]; and
- Amendment to IEP 2, [REDACTED], signed in agreement by the guardian on [REDACTED]

**Allegation 1- Unsubstantiated**

The sole allegation in this matter is that the School District failed to comply with Ed 1120.04(a)(5), which, in relevant part provides that:

An LEA shall obtain informed, written consent from the parent of a child with a disability prior to... changing the nature or extent of the special education or special education and related services.

Specifically, the complainant asserts that the [REDACTED] District removed accommodations from the student's IEP without parental consent.

IEP #2 dated [REDACTED], varied from the previous annual IEP, in that there were changes made as they pertained to accommodations added as well as some removed. The guardian consented to the new IEP, which contained these changes in accommodations on [REDACTED]. There was no evidence to indicate that the guardian had concerns about the changes as they related to accommodations between the 2 IEPs.

In the course of this investigation, the guardian expressed concern that some accommodations were removed without consent. However, upon explanation of the accommodations in question, the investigator discovered that they were included in the second IEP and were not, in fact removed as believed.

In addition to the original accommodations of concern not actually being removed from the IEP, the district reinstated some of the other accommodations that had been removed as well as added additional ones at the guardian's request. This change was documented in an amendment, which the guardian consented to [REDACTED].

Additionally, in response to the complaint and parent concerns, the Director of Student Services, reviewed their policies and provided training to all relevant staff regarding accommodations which included:

- Requiring a discussion to occur during the IEP meeting when adding or removing accommodations;
- No changes to accommodations to occur prior to the discussion; and
- Any changes to accommodations to be explicitly noted in section 5 of the Written Prior Notice and in the Meeting Minutes.

**Conclusion:**

Although the allegation is unsubstantiated, it is not lost on the Department that the complaint could have been avoided had there been better communication regarding the changes. While it is the guardian's responsibility read the IEP prior to consenting, it is understandable that it can be overwhelming and easily missed if the changes were not discussed verbally. It is admirable that the district took the initiative to improve their procedures related to best practice in addition to amending the IEP. In the future we encourage the parties to have open communication prior to consenting.



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