



**Frank Edelblut**  
Commissioner

**Christine M. Brennan**  
Deputy Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*Re: Special Education Complaint # 22-01*

Dear Mr. and Mrs. [REDACTED] [REDACTED], and [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 22-01. 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 allegations 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, 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, the scope of this investigation is from [REDACTED] through [REDACTED]  
[REDACTED]

**Allegation 1- Unsubstantiated**

The first allegation is that [REDACTED] failed to comply with 34 CFR 300.43(a)(1), which, in relevant part, provides that transition services are:

[d]esigned to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

Specifically, the complainant asserts that the district did not have appropriate transition goals in the IEP.

The student had an Individualized Education Plan (IEP) dated [REDACTED] through [REDACTED] which included transition goals based on the information available at that time. The parents had consented to the IEP on [REDACTED].

During the course of the IEP timeframe, the student had participated in evaluations and new special education eligibility determinations. Based on the information gathered during the evaluations, team meetings were held on [REDACTED] and [REDACTED] of [REDACTED]. A new IEP was not proposed at that time as the district was waiting for parent feedback to be included and a valid IEP was still in place. A new IEP was proposed on [REDACTED], which would have been backdated to [REDACTED] and be valid through [REDACTED]. However, the parents did not consent to this proposed IEP.

Given that the parents did not consent to this new proposed IEP, the previous IEP, which the parents had consented to, remained in place and was still valid. That previous IEP, the "stay-put IEP," which the parents had consented to, contained the transition goals which were currently in place. Given this procedural posture—that the transition goals were actively in place and were being utilized—the Department of Education is unable to opine as to whether these were appropriate goals. Similarly, since the transition goals which were proposed in the new IEP were not consented to, the Department is not in a position to render a conclusion as to whether the child was able to access FAPE due to the transition goals.

It is important to note that the district and parents continued to meet and work on composing a mutually agreeable IEP and that the child did not go without special education services.

**Allegation 2- Unsubstantiated**

The second allegation in this matter is that [REDACTED] failed to comply with 34 CFR 300.321(a)(6), regarding IEP team participation by others. This federal regulation provides the following in relevant part:

At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate  
.....

Specifically, the complainant asserts that the district denied the parent's advocate access to a Zoom meeting on [REDACTED].

An IEP team meeting was scheduled for [REDACTED], to be held remotely. An advocate for the family was not permitted to attend. The applicable federal regulation, 34 CFR 300.321 (a)(6), does allow for parents and school members to invite others to participate in IEP meetings. However, this federal regulation is modified by New Hampshire Rules for Special Education rule Ed 1103.01 (e), which provides that either party must provide notice of additional participants at least 72 hour in advance of the meeting date. Additionally, [REDACTED] policy only provides parents 24 hours timeframe in which parents may inform the district of additional participants at the IEP meeting. The evidence in this investigation showed that neither of these timeframes were met by the parents. Regardless, the district did agree to reschedule the IEP meeting to allow for the parent's advocate to attend.

### **Allegation 3- Substantiated**

The third allegation in this matter is that [REDACTED] failed to comply with Ed 1120.03, which, in relevant part, provides:

Parent(s) of a child with a disability shall be notified in writing within a reasonable time, but not less than 14 days, before the LEA proposes to initiate or change, or refuses to initiate or change, the referral, evaluation, determination of eligibility, IEP, or educational placement of the child or the provision of FAPE to the child.

The complainant asserts that the district did not provide the parents with a Written Prior Notice (WPN) on multiple occasions. Specifically, the parents assert that they did not receive WPN following meetings on the following dates: [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

For the changes proposed at the two meetings in [REDACTED] and [REDACTED]—the district did not have a WPN as it was waiting for parent input prior to making the final IEP proposal. A WPN for the proposed IEP was dated for [REDACTED], however the proposed IEP was still dated [REDACTED] through [REDACTED]. Given that the notice was for a proposal with a start date in the past, the requisite 14-day notice was not provided by the district.

For the [REDACTED] meeting, the parents and the district were still attempting to determine an appropriate plan for the student. As such, the director of student services emailed the parents proposing a temporary schedule for the 3rd learning period to ensure that the student was still having his needs met. The parents agreed to the temporary schedule in the email, but no formal written prior notice (WPN) was sent by the district. The district felt that since the proposal was temporary and that there was documentation of agreement in the form of email communication that a formal WPN was not necessary. Although formal documentation was not sent, the argument can be made that the parents did receive notice through email and as such, the parents were afforded an opportunity to provide consent.

As to the last meeting at issue—[REDACTED]—there is no evidence that the meeting ever occurred. Therefore, it cannot be determined whether WPN was provided or if it was even necessary.

Related to the issue of providing WPN prior to a meeting, it was discovered during the investigation that the student had received an increase in speech services. Namely from twice a month to twice a week and that this increased service began on [REDACTED]. Despite this

clear change in services, no WPN was sent for this increase in service, nor was there evidence of parental consent. Although an increase in services was most likely done out of the best interest for the child, the district is still responsible for following the appropriate procedures.

**Allegation 4- Unsubstantiated**

The fourth allegation in this matter is that [REDACTED] failed to comply with Ed 1113.02 (c), which in relevant part provides:

Each LEA shall provide for a continuum of alternative placements for each child with a disability.

The complainant asserts the district did not explore the continuum of placement options for the child.

In addition to the time spent in the general education setting, the student received specially designed instruction in a learning lab, as well as, Assisted Daily Living (ADL) skills in a self-contained classroom. The student's varied placement demonstrates that the district was already utilizing alternative placements which were currently available.

Documentation obtained during the investigation show that the continuum of placement options were discussed at the two IEP team meetings which were held in [REDACTED]. There was no evidence provided by the parents or the district to indicate that there was a necessity to discuss more restrictive programming options than what was already being proposed and implemented.

**Allegation 5- Unsubstantiated**

The final allegation in this matter is that [REDACTED] failed to comply with Ed 1113.12(a), which in relevant part provides:

Personnel providing services to children with disabilities in public elementary and secondary schools shall be appropriately and adequately trained.

The complainant asserts that the para-professional who was assigned to the child was not appropriately trained.

The parent's advocate provided a letter to the high school principal on [REDACTED]. The letter detailed an incident which occurred where the parents overheard the para-professional discussing the student, expressing opinions, and criticizing the support the student's mother provided during remote learning.

Although this situation is by no means acceptable, the district was able to provide documentation relating to the training of their para-professionals. The actions in question were not due to a lack of appropriate training, rather, was a lack of professionalism. The Director of Student Services assured the investigator that the situation with the staff member had been handled internally as a matter of employment.

Conclusion:

It is clear in this matter that both parties have the best interests of the child in mind, but the parties have different ideas of what that ultimately looks like. It is also clear that the district has consistently attempted to work with the family to reach a mutually agreeable conclusion. The Department has recently been informed that an IEP has been proposed and accepted by the parents. Even with this in place, the Department encourages both parties to keep the lines of communication open between both parties so that both entities can continue to work together to achieve what is best for the student.

Corrective Action:

██████████ will review their practices around WPN to ensure compliance with state and federal regulations and review the policy with all necessary staff. Evidence of this corrective action must be submitted to the Department of Education by ██████████.

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