



Frank Edelblut
Commissioner

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, NH 03301
TEL. (603) 271-3495

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 24-01

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 24-01. 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 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 may 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 information, the child had two Individualized Education Programs (IEPs) during the complaint period. The current IEP is active from [REDACTED]. The former IEP was active from [REDACTED]. The crux of the complaint centers around the delivery of special education services during the [REDACTED] school year. The child's former IEP mandated eight, 20-minute individual sessions per month and four, 20-minute group sessions per month in speech and language services to take place at [REDACTED] half-day preschool program. Transportation was provided for in the IEP, however, transportation was not specified. Specifically, the IEP simply provided for "transportation," presumably from the child's residence to and from the preschool program. However, because the program was not a full day program, the parent needed the child brought to a daycare, which is in the neighboring town, for the remainder of the day. However, given that the daycare provider was in a different town, the District told the parent that it could not provide the required transportation to bring the child to the daycare provider. Subsequently, the parent

was limited with childcare and transportation options and as a result, the child did not receive the speech and language services for the entirety of the 2022-23 school year.

Allegation 1 – Unsubstantiated

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

The local education agency (LEA) shall provide special education, related services, supplementary aids and services, accommodations, and modifications to child with a disability in accordance with the child's IEP.

Specifically, the complainant asserts that the District did not provide the services mandated by the child's IEP.

While the District was within its rights to limit transportation to the child's residence and the site of services¹, the proper protocol would have been to convene the IEP team to discuss the need to alter placement or terminate the services, which could have resulted in the parent being more fully informed than she was as to what rights she had in this situation, including her right to appeal this decision.

The communication issue between the parent and the school is discussed in more detail in Allegation 2.

Allegation 2 – Substantiated

The second allegation in this matter is that the [REDACTED] District failed to comply with Ed 1109.06(c), which, in relevant part provides that:

The LEA, upon written request for an IEP team meeting by the parent, guardian or adult shall schedule or convene the IEP team at a mutually agreed upon time and date, or provide the aforementioned party with written prior notice detailing why the LEA refuses to convene the IEP team, within 21 days following the receipt of the written request for the IEP team meeting.

The complainant asserts that the District did not follow through on scheduling an IEP team meeting despite receiving calls and emails for requests to update the child's IEP. Specifically, the parent provided multiple examples of phone calls and emails to the child's case manager to convene the IEP team to discuss the issues surrounding the services not being provided. Those attempts, however, went unanswered by the case manager until the late spring of [REDACTED] when the case manager finally responded and admitted to having "dropp[ed] the ball." It is worth noting that this particular case manager is no longer employed at the District, in part, due to poor handling of special education procedures.

District's Addendum

The District submitted an addendum that states: "[The parent] stated they may be moving to [REDACTED] [Special Education Coordinator] stated it would be best practice to update the IEP in case she moves where there is a preschool she could attend and have transportation too. The parent agreed. The team also agreed that by the end of August, if the parent is not moving and the student is attending daycare not in the LEA district, she would sign a refusal of special education."

¹ Current NH law, RSA 186-C:2.V.(a)(1), states that a district "shall provide transportation, if required by the child's [IEP], from the place where the child is boarded to the place of instruction."

[REDACTED]

To be clear, the result of this difficult situation should not be that the child does not receive services—especially when a year of potential progress has already been lost. The Department expects that parties work together for the best interest of the child. If disagreements persist, the Department hopes that the District will be entirely forthcoming and communicative regarding the procedural safeguards and rights available to the parent.

Conclusion

It is disappointing that the child did not receive the speech and language services that were detailed in the IEP. If not for the lack of communication from the case manager, there could have been some creative problem-solving that would have allowed the child to participate. Additionally, it perplexes the Department how the District intends to address the deficit caused by the missed services when the current IEP contains fewer services than the former IEP.

Corrective Action

The [REDACTED] District will convene the IEP team twice: once to revisit the adequacy of the amount of services listed in the current IEP to insure that the child will make progress on the speech and language goal and again mid-year to review the status of the child's progress on the speech and language goal. Evidence of the corrective action must be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301 by [REDACTED] and then again by [REDACTED]

The [REDACTED] District will contact the parent within the first few weeks of the [REDACTED] school year to discuss the status of the child's participation in any services mandated by the child's current IEP. Evidence of the corrective action must be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301 by [REDACTED]

The [REDACTED] District will review their internal policies related to special education responsibility and advise their case managers, as necessary, to ensure compliance with state and federal requirements. Evidence of this corrective action must be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301 by [REDACTED]

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