



Frank Edelblut
Commissioner

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Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 24-04

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education Support, has concluded its investigation of complaint # 24-04. 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 former IEP was active from [REDACTED], and was amended on [REDACTED]. The parents had indicated at the IEP team meeting in [REDACTED] and in numerous IEP team meetings and communications with the District since then, that they would like their child to receive specially designed reading instruction using the Wilson Reading System program. However, the District followed a common practice and refused to commit to a specific program within the IEP. Instead, the District did note that it would utilize a "sequential reading program" or "multi-sensory, structured literacy program" and would utilize the Wilson Reading System program, if possible. According to meeting notes from the [REDACTED] school year, the child did receive Wilson Reading System instruction during the school day.

The child's current IEP is active from [REDACTED]. The IEP indicates that a "structured sequential reading program which focuses on phonics, fluency, and comprehension" will be used to measure progress on the language arts goal. At a student progress meeting held in [REDACTED], the IEP team approved of extended school year (ESY) services in the areas of reading, written language, and

mathematics to capitalize on emerging skill acquisition, especially since the Wilson Reading System program requires “constant review on a daily basis” to retain skills. In subsequent student progress meetings that occurred in [REDACTED], the parents continued to seek assurance from the case manager that the Wilson Reading System program would be provided as part of the ESY services. Notes from both meetings show that the case manager assured the parents that she was trying to arrange that with the ESY coordinator, but, that again, the District would not commit to utilizing a specific program. As such, the Wilson Program was not used at the start of the ESY program on [REDACTED], but was utilized from mid-July to early August. Specifically, according to the services logs from the ESY program, the child received 15 hours of Wilson Reading System program instruction over the course of 12 sessions.

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 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.

Specifically, the complainant asserts that the District did not provide the reading program services as mandated by the child’s IEP.

The child received language arts/reading services as mandated by the IEP as part of the English Language Arts class that was taught by the special education teacher on a daily basis. Additionally, the ESY program, which spanned 12 school days, provided 15 hours of Wilson Reading System instruction over the course of 12 sessions. While the parents requested that a particular reading program be utilized, the regulations do not require that a district specifically commit to using any particular program, in the same way that regulations do not obligate a district to utilize specific evaluative assessments. Rather, the governing administrative regulations require that tools be “valid and reliable,” “administered by trained and knowledgeable personnel,” and “tailored” (34 CFR 300.304). Given this regulatory language, it is common educational practice for a district not to commit to any specific program, as was done here. As such, the child’s language arts/reading services had been provided in its entirety.

Conclusion

While the District should do its best to honor the parents’ request for a specific program when it has the resources, it is not legally obligated to do so given regulatory language. The Department would encourage the IEP team to pay attention to input from parents who are best positioned to understand the needs of their child. Still, the entire IEP team should be clear and communicative about what resources are available so that everyone feels notified and prepared, rather than surprised and panicked.

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