



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

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

[REDACTED]

Re: Special Education Complaint # 24-06

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education Support, has concluded its investigation of complaint # 24-06. 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, which was active from [REDACTED], included 4, 45-minute sessions, per week of specially designed reading instruction by a reading specialist. The current IEP, which is active from [REDACTED], includes 5, 30-minute sessions, per week of specially designed reading instruction by a reading specialist. The child received instruction from a reading specialist throughout the [REDACTED] school year up until [REDACTED] when the reading specialist resigned suddenly.

Parents were immediately notified by the District that the reading services would now be provided by a special education teacher and not the reading specialist. Although the District posted the job opening, it received no qualified applicants. In fact, the District was only able to fill the position with a qualified person in [REDACTED]. For the [REDACTED] school year, the child has been receiving the reading services by a reading specialist, as mandated by the IEP since the start of the school year.

Allegation 1—Partially Substantiated

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) will provide all 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 reading services as required in the IEP were not provided by a reading specialist, the specific service provider, and therefore, violated the IEP. In sum, the crux of this complaint stems from the sudden resignation of the reading specialist in [REDACTED].

By way of relevant background, the child’s mother—who is not the parent who filed this submitted complaint—was aware that after the reading specialist had resigned, the District implemented an alternative service plan to fulfill the requirements of the IEP. Specifically, that the child would receive 40 minutes of reading instruction per day from a certified special education teacher who had received additional training in the Orton-Gillingham reading program. This was 10 more minutes than was mandated by the IEP to address any deficiencies from having the provider not be a reading specialist. This alternative plan was approved by the mother. While this instruction was not provided by a certified reading specialist, as required in the IEP, the District was able to still provide a free appropriate public education (FAPE), to the child even with the sudden departure of the reading specialist.

The finding of “partially substantiated” is rooted in the fact that the services were not administered by the specified provider in the IEP. However, the Department recognizes that the District took appropriate action to cure any deficit and that the parent who did not file this complaint had agreed to the alternative plan.

Conclusion

The Department appreciates the District’s transparency and immediate action to implement an alternative service plan for the child. While the Department recognizes that the District communicated and received approval for this change from the mother, in the future, it would recommend making sure that all parents, including those with shared custody who may reside in different districts, are notified of any changes or disruptions to special education services.

Corrective Action

The [REDACTED] District will convene an IEP team meeting to review the child’s reading progress and determine if there is a need for compensatory education as a result of not receiving services from a reading specialist. 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].

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