



Frank Edelblut
Commissioner

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
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[REDACTED]

Re: Special Education Complaint # 24-12

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education Support, has concluded its investigation of complaint # 24-12. 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 student, who is currently in the ninth grade, had previously qualified for special education services from second through fifth grade. The student was found ineligible after a re-evaluation and had no services for a period of two years. In the fall [REDACTED], when the student was in [REDACTED] grade, the parents requested an evaluation, and the student was found eligible with a specific learning disability in reading and a speech and language impairment. An Individualized Education Program (IEP) was developed in [REDACTED], which is the subject of this complaint. It is noteworthy that the IEP is listed as active from [REDACTED], but was not signed in consent until [REDACTED].

The crux of this complaint centers on the provision of reading instruction by a certified reading specialist that was scheduled to occur beginning [REDACTED], until when the complaint was received by the Department on [REDACTED]. Specifically, the parent would like the instruction to be the Wilson Reading System Program although the IEP does not mandate that the reading instruction must exclusively be that specific program. Regardless, the District attempted to hire a certified reading specialist that was trained in the Wilson Reading System. However, the District could not secure such a specialist who was able to start the [REDACTED] school year, and therefore did not provide the reading services. Then, [REDACTED] a plan was developed to have the student receive the reading services by a Wilson-trained certified reading specialist at [REDACTED] School.

Allegation 1—Substantiated

The allegation in this matter is that the [REDACTED] District failed to comply with Ed1109.03(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 reading services as mandated by the IEP during this current school year or the previous school year.

The District acknowledges that there was a gap in reading services while they were searching for a qualified candidate. In a letter to the Department, the District stated:

[T]he district has added 15 minutes to each 45 minute [sic] session identified in the IEP so that compensatory services could be accounted for in the amount of 17 missed sessions. That extra time will continue until the total amount of minutes has been delivered at which point the services as outlined in the IEP will resume.

This plan is acceptable to the Department.

Conclusion

While the IEP mandates that a reading specialist perform the direct instruction in reading, the IEP does not specify that the Wilson Reading System be utilized. However, in seeking to honor the parent's desire that the Wilson Reading Program be used, that a gap in the required reading services occurred. In the future, the IEP team should consider if a lapse in services outweighs any potential compromise on which type of reading program should be used, even if for an interim period.

As an additional matter, while not the subject of this complaint, it became clear that the IEP was not signed in consent until 7 months after the IEP team meeting to develop the IEP. The Department does not understand how the [REDACTED] District was providing special education services when the IEP had not been signed in consent, even though the parent was aware that

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services were occurring throughout that time. This is a procedural error that should be reviewed by the District.

Corrective Action

The ██████████ District has stated that since it has acquired a certified reading specialist, 15 minutes will be added to each session until all compensatory minutes have been completed. This plan is satisfactory to the Department, so no additional corrective action will be issued at this time. The Department does request that evidence of this action be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301 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
NH Department of Education