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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*Re: Special Education Complaint # 24-30*

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education Support, has concluded its investigation of complaint # 24-30. 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 indicating 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 was enrolled in the [REDACTED] ("the District") up until [REDACTED], when the parent sent a letter to the District's superintendent stating that the student was going to be withdrawn from the District and receive a home education as defined by NH RSA 193-A:4(I).<sup>1</sup> While not directly relevant to the special education complaint, it is worth noting that the child was withdrawn from the school and began home education due to bullying concerns at the school. In turn, as required by RSA 193-A:5(IV), the superintendent sent a letter 3 days later on [REDACTED], acknowledging receipt of the letter, including the statement, "[I]f you are home schooling (home education) your child in accordance with RSA 193-A, [h]ome-schooled students with

<sup>1</sup> RSA 193-A:4: "Instruction shall be deemed home education if it consists of instruction in science, mathematics, language, government, history, health, reading, writing, spelling, the history of the constitutions of New Hampshire and the United States, and an exposure to and appreciation of art and music. Home education shall be provided, coordinated, or directed by a parent for his or her own child."

disabilities do not, however, retain the right to receive the free and appropriate public education provided by the school district to public school students with disabilities [...] Please contact me if you have any questions.” The superintendent’s statement is true—RSA 193-A:9, relevant to home education, absolves the resident school district of “any liability allegedly based on the failure of the child to receive a free appropriate or adequate public education.” The student was then exited from special education in the NH Special Education Information Systems (NHSEIS), which was an appropriate action by the school district because if the student was ever re-enrolled in a public school, the special education process would have to begin again with a referral.

### **Allegation 1—Unsubstantiated**

The sole 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 [REDACTED] did not provide special education or related services in accordance with the IEP while the student was enrolled in [REDACTED] Charter School [REDACTED] from [REDACTED].

When the student was withdrawn from the District and entered into a home education program, the student was appropriately exited from special education. If the parent subsequently enrolled the student in [REDACTED] full-time, the parent would have had to submit a referral for special education and begin coordinating those steps with the District. If the student was enrolled in [REDACTED] part-time as a part of the student’s home education program, then the District was not obligated to provide special education. It is for these procedural reasons that this allegation is not substantiated.

### **Conclusion**

First, the Department would like to acknowledge the distress that the student experienced as a result of bullying. Schools should be safe places for all children. While the Department could not substantiate this allegation, the Department encourages all parties to collaborate for what is in the best interest of the student. Adjacent to this complaint, the Department will take this opportunity to inform the parties of 193:1-C, which states, “...home educated pupils shall have access to curricular courses and cocurricular programs offered by the school district in which the pupil resides,” if that is something the parent would like to pursue.

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