



Frank Edelblut
Commissioner

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Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
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[REDACTED]

Re: Special Education Complaint # 24-31

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education Support, has concluded its investigation of complaint # 24-31. 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 attends the [REDACTED] grade at [REDACTED] within Manchester School District ("the District"). The student had one Individualized Education Program (IEP) during the complaint period that was signed in consent by the parent on [REDACTED]. This is the student's initial IEP, which mandates English Language Arts specialized instruction 5 times per week for 30 minutes each session.

The crux of this complaint stems from the processing of the student's referral. The student's [REDACTED] grade teacher had originally submitted a referral for special education in [REDACTED]. The District does not dispute this fact. However, no action was taken to process this referral. Then, in [REDACTED], the parent had submitted an additional referral, which was processed by the District, culminating in a disposition of referral meeting on [REDACTED].

At this meeting on [REDACTED], IEP team members present included the student's current [REDACTED] grade teacher, as well as other required personnel. However, the parent asserts that the student's [REDACTED] grade teacher should have been in attendance because that teacher made the initial referral back in June and could provide additional insight into the student's abilities.

The Individuals with Disabilities Education Act (IDEA) requires that the IEP team be comprised of the student's parents, one regular education teacher, one special education teacher, a representative of the school district, a professional who can interpret evaluation results, the student, when appropriate, and any other individuals with knowledge of the student who may be invited by the parent or school district.

Allegation 1—Substantiated

The first allegation in this matter is that the Manchester School District failed to comply with Ed 1106.01(c), which, in relevant part provides that:

The local education agency (LEA) shall, upon receipt of a referral from any source, immediately notify the parent, in writing, of the referral.

Specifically, the complainant asserts that the District failed to notify the parent that the District received a special education referral from the student's 2nd grade teacher in [REDACTED]. This prevented the IEP team from convening to determine its disposition of the referral and thereby delaying the referral process until [REDACTED] when the parent completed a special education referral.

The District does not dispute the fact that the teacher had submitted a referral for special education in [REDACTED] and that it was not acted upon. The parent was not notified, which meant that the IEP team could not conduct a disposition of referral meeting, thereby delaying the evaluation process by approximately 3 months.

Allegation 2—Unsubstantiated

The second allegation in this matter is that the School District failed to comply with 34 CFR 300.321(a), which, in relevant part provides that:

The LEA must ensure that the IEP team be comprised of the parents, one regular education teacher, one special education teacher, a representative of the school district, a professional who can interpret evaluation results, the student, when appropriate, and any other individuals with knowledge of the student who may be invited by the parent or school district.

Specifically, the complainant asserts that the district did not have all necessary members at the IEP team meeting that occurred on [REDACTED].

While the Department understands the parent's request for the previous year's regular education teacher to be present, especially given the previously established unprocessed referral, the fact of the matter is that the student's current regular education teacher was present for the meeting, as were all other required persons.

Conclusion

[REDACTED] is a critically important year in developing early literacy skills. Any unnecessary delays in evaluating students with reading deficits, especially during this critical year, can have dire consequences.

It is essential that the District take measures to correct this unfortunate error in its referral process and make sure that this student has access to the resources necessary to make effective progress in reading.

Corrective Action

The Manchester School District will review its policies and procedures related to processing referrals and apply corrections, where necessary, to ensure compliance with state and federal regulations. 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]

The Manchester School District will amend the student's IEP to include a multi-sensory reading program for the remainder of the [REDACTED] school year and will convene the IEP team at the end of the school year to discuss if continuation with the program is required for the student to make effective progress. 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 Manchester School District will provide Extended School Year (ESY) reading services at a minimum of 150 minutes per week, as well as transportation to and from said services, to the child for the duration of the [REDACTED] ESY program. 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.

Sincerely,

Frank Edelblut
Commissioner of Education
NH Department of Education