



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 24-41

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education Support (“the Department”), has concluded its investigation of complaint # 24-41. 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 child is three years old and currently attends a community-based preschool within the [REDACTED] (“the District”). The child currently receives special education and related services under Developmental Delay. The child’s initial Individualized Education Program (IEP) is dated from [REDACTED], and was signed in consent on [REDACTED]. Because the District does not have a public preschool program, it maintains relationships with local private preschool programs and will provide special education and related services within those private programs.

The crux of this complaint rests on the fact that the private preschool program conveyed to the parent that the child could no longer attend the program unless the child had the support of a 1:1 paraprofessional. This prompted the parent to reach out to the District on [REDACTED], and an IEP team meeting was held 4 days later. The IEP team agreed to add a 1:1 paraprofessional for 4 hours per day in the preschool program. This is in addition to the early academic skills specially designed instruction, occupational

therapy, and speech therapy already included in the child's IEP. Given the dire nature of the situation—the private program was going to terminate the child's enrollment without the 1:1 paraprofessional support—the IEP amendment was written to begin the day following the IEP team meeting, [REDACTED]. However, the District did not have any staff available to begin on the [REDACTED]. Thus began the efforts to find a paraprofessional: the District contacted [REDACTED], offered to pay the private preschool program for one of their staff to fulfill the role, and began examining their own staff schedules to see if any restructuring might create the availability for someone to go to the private preschool. The private preschool program informed the parent that [REDACTED], would be the child's final day at the program until a 1:1 paraprofessional could be provided for the child. On [REDACTED], [REDACTED] to the District that they could provide a paraprofessional only Monday, Wednesday, and Friday. The District then used staff to supplement the additional Tuesday and Thursday. At the time the special education state complaint was filed with the Department, there had been 7 days that the child did not have a paraprofessional.

Allegation 1—Substantiated

The sole allegation in this matter is that the 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 a 1:1 paraprofessional was not provided to the child in accordance with the child's IEP.

The District responded to the parent's urgent concern regarding the private program terminating the child's enrollment, convened the IEP team within 4 days, and agreed with the parent that the paraprofessional was needed to provide a free appropriate public education (FAPE). Typically, when there is a proposed change to the IEP, the parent is given 14 days to review and consent to that change. However, in this case, the IEP amendment began the following day before all resources could be arranged and put in place. This resulted in an unfortunate lapse in supports being obligated but unavailable, resulting in the student being suspended from the private preschool program. Therefore, the Department substantiates this allegation.

Conclusion

The Department recognizes that the District, in its efforts to respond to the dire situation and provide the child with FAPE, was left scrambling to assemble resources. Additionally, the District did not refute the allegation and facts as part of this investigation and continued to actively search for resolutions to this situation. As the educational programming has resumed for the child, the Department does not order any corrective action at this time.

We hope that in the future the parties will work together to resolve any differences that may arise.

Frank Edelblut
Commissioner of Education
NH Department of Education