



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 # 24-47

Dear [REDACTED]:

The New Hampshire Department of Education, Governance Unit ("the Department"), has concluded its investigation of complaint # 24-47. 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 a kindergarten student within the [REDACTED] ("the District"). During the complaint period, the child had one Individualized Education Program (IEP), which was dated [REDACTED] which was signed in consent by the parent on [REDACTED]. The special education support within the IEP that is relevant to this complaint is as follows:

- Rehab Assistant for Carry Over, Coordinator – Special Ed Teacher, Provider – Paraprofessional, I sessions / day of 6.5 hour, 9/5/23-5/19/24, Regular Education Setting.

There were several issues that propelled the parent to file this complaint. The language of the IEP was ambiguous regarding whether the paraprofessional was designated as an individual (1:1) support to the child. The parent was receiving anecdotal information from the regular education classroom teacher that the paraprofessional was working with other children in the classroom, thereby not providing appropriate services or attention to the child of this complaint. However, the Department will note that this

information is contradictory to the daily paraprofessional logs that indicate the carry-over of skills taught by other therapy providers, as well as the positive academic progress the child was making. Additionally, the parent received a generic letter sent to all parents of children in special education in the District that there was a shortage of teachers—the parent received this letter even though the child was not affected by the shortage. The culmination of these events led the parent to believe that the child was not provided supports mandated by the IEP and, subsequently, to file this complaint.

Allegation 1—Substantiated

The sole allegation in this matter is that the District failed to comply with Ed 1109.03(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 failed to provide a paraprofessional in accordance with the child’s IEP.

It was difficult for the Department to ascertain if the paraprofessional did help other students in the classroom. Service logs provided by the District note that service times range from 240 to 270 minutes, or 4 to 4.5 hours. While the District reports that the paraprofessional takes a 30-minute or 0.5-hour lunch, during which time other staff members provide services to the student, this still does not mathematically equate to the 6.5 hours mandated within the IEP. It is unclear to the Department if or how this gap was covered as it remains clear from various District reports that a paraprofessional was in the classroom throughout the entire day.

The Department will note that there appears to be some confusion within District staff regarding how many minutes and hours of services can be entered into the NH Special Education Information System (NHSEIS). This ends up translating into some documents that mention hours of required service, but then service logs that are measured in minutes. The Department recommends that the District contact the Department’s Bureau of Special Education Support to determine best practices for data entry into NHSEIS. Moreover, while outside the scope of this complaint, the Department wants to emphasize that it does not recommend listing special education or related services as a set number “per school year” as that does not ensure a continuity of services.

Conclusion

While outside of the complaint period, the Department will note that, at a meeting that took place on [REDACTED] the IEP team agreed to develop a new IEP that will clearly define the paraprofessional as an individual (1:1) provider to the child. Additionally, the IEP team agreed that the District’s board certified behavior analyst (BCBA) will complete a functional behavior assessment (FBA) and implement skills-based training. The IEP team also agreed to schedule monthly collaborative meetings with the family’s community-based, applied behavior analyst (ABA) provider to coordinate efforts. The Department appreciates the efforts of the IEP team’s collaboration to promote positive student outcomes.

Corrective Action

The [REDACTED] District will submit the documentation from the [REDACTED], IEP team meeting that will clarify the agreed-upon level of paraprofessional support and other agreed-upon items.

Documentation may include any of the following: the updated IEP, written prior notice, and/or team meeting notes. 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 [REDACTED] District will have relevant special education staff participate in NHSEIS training offered by the Department's Bureau of Special Education Support. 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.

Frank Edelblut
Commissioner of Education
NH Department of Education