



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 # 24-50

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education Support (“the Department”), has concluded its investigation of complaint # 24-50. 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 attends the [REDACTED] grade at [REDACTED] within the [REDACTED] (“the District”). The child receives supports and services at school in the areas of reading, math, social skills, occupational therapy, and counseling. During the complaint period, the child had an IEP that spanned [REDACTED]. This IEP was amended on [REDACTED], and one of the changes included the addition of headphones as a sensory support tool. At the time immediately following the amendment, the child was offered noise-canceling headphones, but the child declined to wear them. It does not appear that this choice was also shared with the parents during this time. It was not until [REDACTED], when the IEP team met to discuss supplemental audiology evaluations that the headphones were discussed again. Headphones that the child agreed to wear were procured by both the District and the parent in [REDACTED].

Allegation 1—Substantiated

The first 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 the child with headphones, an accommodation within the child's IEP.

The message that the student required headphones was a frequent one throughout the [REDACTED] school year. The [REDACTED], IEP amendment, a WPN dated [REDACTED], and email communications between the District and parents in [REDACTED] all suggest that members of the IEP team were focused on obtaining the headphones for the student. However, sometimes the policies and procedures associated with ordering materials through a school district may cause delays and "red tape." While the parent was able to purchase and receive the required headphones in a matter of days by ordering the item personally, it unfortunately took the District weeks to order the same item. While the accommodation of headphones was added to the IEP in [REDACTED], the student did not ultimately receive said item until [REDACTED], which is a significant delay.

Allegation 2—Unsubstantiated

The second allegation in this matter is that the District failed to comply with 34 CFR 300.320(a)(3)(ii), which, in relevant part provides that:

The LEA shall provide periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

Specifically, the complainant asserts that the District failed to provide special education progress notes in concurrent with the issuance of report cards.

The District issued report cards on [REDACTED], and stated that progress notes would be issued shortly thereafter on [REDACTED]. A review of NHSEIS shows that the progress notes were created on that day but were not necessarily issued. The parent proceeded to contact the District on [REDACTED] and again on [REDACTED] to inquire about the status of the progress notes. The child's case manager responded to the parent on [REDACTED] that progress notes would be sent out shortly and a copy would also be in child's backpack. It was clear from the act of contacting the District twice that the parent wanted to be an active participant in the special education process by reviewing these progress notes. While the District had initially stated that progress notes would be issued within 4 days of report cards, the progress notes were issued within 13 days. While the Department recognizes that there was a delay, evidence does not show that a delay caused such an impediment to the parent's access to the special education process.

Conclusion

Communication between school staff and parents is always a crucial element of student success. The issues subject to this complaint share a similar theme that communication can sometimes lag, which may

██████████

inadvertently result in misunderstandings or frustration. The Department will take this opportunity to remind all IEP team members to work collaboratively in the best interest of the child.

Corrective Action

The ██████████ District will convene the IEP team to review if the lack of headphones caused any negative educational impact and will propose, if necessary, solutions to mitigate this issue. The District will also reimburse the parent of the cost of the headphones purchased by the family that the student used in school. Evidence of the corrective action must 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