



Frank Edelblut
Commissioner

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, NH 03301
TEL. (603) 271-3495

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 24-60

Dear [REDACTED]:

The New Hampshire Department of Education, Governance Unit (“the Department”), has concluded its investigation of complaint # 24-60. 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 is an in-coming [REDACTED] grader at the [REDACTED] within the [REDACTED] (“the District”). During the complaint period, the student had one IEP that spanned [REDACTED]. This IEP identified the student in two areas of disability: Speech/Language Impairment, and Other Health Impairment, due to Selective Mutism. The IEP had goals in Speech/Language, Reading, and Communication.

Allegation 1—Partially Substantiated

The first allegation in this matter is that the District failed to comply with Ed 1107.05, which, in relevant part provides that:

The IEP team determining the child's disabilities shall develop a written summary containing the results of the various diagnostic findings and forward a copy of the report to the parent and a copy

to the LEA for the child's records. The report shall include, but not be limited to, the results of each evaluation, a written summary of the findings, and information regarding the parent's rights of appeal and a description of the parent's right to an independent educational evaluation.

Specifically, the complainant asserts that the District did not provide the parents with evaluation reports from the child's [REDACTED] triennial evaluation.

The parties both agree that the parents received copies of the evaluation reports as part of the student's triennial evaluation. DocuSign confirms that the evaluation reports were sent by the school psychologist on [REDACTED], and received by the parents later that same day. It is unclear if the evaluation summary was included with those reports. However, the District was able to produce the evaluation summary when asked as part of this investigation. The parents contend that, while they received the individual reports, they did not receive the summary. Because the Department cannot conclude that the parents received the evaluation summary that the District prepared, the Department partially substantiates this allegation.

While outside the bounds of this specific complaint, there were concerns noted that each of the student's individual eligibility determination forms were not discussed and documented within the IEP team. While the eligibility determination form was completed for one of the disability categories, it was not for the other two.

Allegation 2—Partially Substantiated

The second allegation in this matter is that the School District failed to comply with 34 CFR 300.324, which, in relevant part provides that:

The IEP team must review and revise the IEP to address any lack of expected progress toward annual goals and the general education curriculum.

Specifically, the complainant asserts that the District did not use data to accurately revise the child's IEP to address lack of expected progress.

The student's lack of expected progress in reading was frequently discussed by the IEP team during the [REDACTED] school year. As such, new evaluations were conducted to explore the possibility of a Specific Learning Disability (SLD). Although the student was not identified with a SLD until the end of the school year, the IEP team had always noted deficits in reading and there had always been a reading goal in the IEP. The District stated they provided Response to Intervention (RTI) supports to supplement efforts in reading instruction. The parents had inquired as to what kind of reading program was being used and if it was evidence based. They were told the RTI was being taught by a reading specialist but not which specific program being used, such as Wilson or Orton-Gillingham.

The District presented evidence of data collections from DIBELS assessments, teacher record-keeping, and student work. It is the District's position that the teacher did alter lessons and instruction based on these assessments. The parent's position is that if this is so, they were not made aware of any changes in instruction and are very concerned that no progress was made.

Ultimately, the parties used IEP facilitation to further determine what the student's reading program will look like. The Department is pleased to hear that discussions have been positive and productive. Still, the Department remains concerned that the student had made minimal progress on reading during a pivotal developmental year. While it appears that there have been proposed interventions through the RTI model,

as well as frequent discussions within the IEP team, that is not reflected in adjustments to the IEP. Therefore, the Department considers this allegation to be partially substantiated.

Conclusion

The fundamental issue at heart here is that the student is not making sufficient progress in reading. The Department appreciates that the IEP team has renewed positive and productive communications to problem-solve solutions to help the student achieve progress. The Department hopes that that the IEP team can continue to work collaboratively to support the needs of the student.

Corrective Action

The [REDACTED] will review their internal policies and procedures related to evaluation summary reports and revise, as necessary, with state and federal requirements. The District will also train relevant personnel on their compliant policies and procedures. 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]

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The [REDACTED] will convene the IEP team to determine the specifics of the child's reading instruction. There should be transparency in the provider, program, and data measurements used to track student progress. The IEP team shall ensure that the approach and instructional materials used to support reading instruction are aligned with the science of reading. Additionally, the IEP team shall assess and implement compensatory education to recover from a lack of expected 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]

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