



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 # 24-61

Dear [REDACTED]:

The New Hampshire Department of Education, Governance Unit (“the Department”), has concluded its investigation of complaint # 24-61. 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 will be entering the [REDACTED] grade at [REDACTED] within the [REDACTED] (“the District”). During the complaint period, the child had one Individualized Education Program (IEP) dated [REDACTED], which was signed in consent by the Mother on [REDACTED], and the Father on [REDACTED]. The crux of this complaint was whether the nature of the reading services was appropriate for the child to make effective progress. Therefore, the services and goals associated with this complaint, as stated in the IEP, are as follows:

- Reading—Specially Designed Instruction by a Special Education Teacher, 2 sessions per week for 30 minutes each in a special education setting
- Reading—Reinforcement of Skills by a paraeducator, 2 sessions per week for 30 minutes each in a special education setting

- Goal: By June [REDACTED], when given an instructional level literacy text and prompt, [child] will compare and contrast 2 characters in the story (e.g. their reactions to an event or toward another character, the motivation behind their actions) using at least 4 details from the text in 3 consecutive opportunities as measured every three weeks using progress monitoring literacy responses and work samples.

The IEP team convened on [REDACTED], at the parents' request. Subsequently, an IEP Amendment was proposed to increase the specially designed reading instruction by the special education teacher to 4 sessions for 30 minutes each and adding a new phonics-based reading goal. This amendment was rejected by the parent, who refused consent to the new goal and specified that the child receive multi-sensory reading programs by a certified instructor (either in the Orton-Gillingham method or Wilson Reading Systems). This same amendment was proposed again in [REDACTED] and [REDACTED]. Finally, in [REDACTED], an IEP Amendment was proposed and signed in consent by the parent on [REDACTED], which contained the following changes:

- The addition of the new phonics-based reading goal; and
- Supplemental Instruction—Reading by a Special Education Teacher, 4 sessions per week for 30 minutes each in a special education setting. This service is labeled as “supplemental” to indicate that the service will not be in place of regular ELA instruction but will be in addition to the regular ELA instruction.

The Department's investigator reviewed various sources to determine if the child made effective progress in reading during the complaint period. The IEP progress report dated [REDACTED], confirmed that the child mastered the reading goal and objectives outlined in the IEP. On an oral reading fluency assessment taken [REDACTED] the child was able to read below-grade-level (i.e. grades 3-5) passages at a below-average rate but with high accuracy. When given grade-level passages, the child's reading rate slowed and accuracy decreased. Additionally, on the [REDACTED] assessment, the child scored a 471 with a Lexile level of 425, which is an 84-point growth from the baseline taken earlier that school year. The [REDACTED] program indicated that a typical expected yearly growth would have been a score of 413 and a “stretch growth” would be a score of 460—the child surpassed both.

Allegation 1—Partially Substantiated

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

The IEP must include a statement of the special education and related services and supplementary aids and services that will enable the child to advance appropriately toward attaining annual goals and making progress in the general curriculum.

Specifically, the complainant asserts that the special education and related services within the child's IEP has not been sufficient for the child to make progress in reading.

It is clear from the data that reading fluency is an area of challenge for the child. Based on this fact, it is important that the IEP team continually monitor the student's progress and make adjustments to the IEP accordingly. In this case, the IEP convened several times throughout the complaint period and the District proposed reasonable changes in services and goals to account for the student's challenges. Based on the

[REDACTED]

data collected in June 2024 on various measures, the child made some progress, even if there is still room for improvement.

Conclusion

The Department will take this opportunity to congratulate the child on his hard work and growth during the previous school year. While the Department is encouraged that the child has made educational progress, it is concerned that the progress was limited when specific interventions sought in [REDACTED] [REDACTED] and finally approved in [REDACTED] were implemented. The Department hopes that the IEP team can continue to work collaboratively to review the child's progress and ensure that the student receives a free appropriate public education (FAPE).

Corrective Action

The [REDACTED] District will convene an IEP team meeting to determine if there is a need for compensatory education to allow the child to make progress in reading. 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