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STATE OF NEW HAMPSHIRE
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[REDACTED]

[REDACTED]

Jennifer Chmiel—Superintendent, SAU 37
20 Hecker Street
Manchester, NH 03102

Salina Millora—Chief Student Services & Wellness Officer

Re: Special Education State Complaint # 25-04

Dear [REDACTED], Dr. Chmiel, and Ms. Millora:

The New Hampshire Department of Education, Governance Unit (“NHED”), has concluded its investigation of special education state complaint # 25-04. Based on the findings of fact in the investigation, NHED is issuing its 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 school district to remedy any violations. 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 parentally placed in the [REDACTED] grade at [REDACTED] [REDACTED] but is a resident of the Manchester School District (“the District”). As part of the triennial reevaluation process, the parent signed the consent to conduct the evaluations on [REDACTED], and thus the 60-day timeline to complete the evaluations began. The District contacted the parent on [REDACTED], to schedule a review of the evaluation results. A few days later, the parent emailed the District citing concerns about the testing environment and other discrepancies, ultimately questioning the validity of the testing results and requested an independent educational evaluation (IEE). The parent confirmed in an interview with the complaint investigator that when they requested an IEE, they intended for the District to stop their own evaluation process. At this point, without parental consent to proceed with evaluations, the District was absolved from meeting the 60-day timeline.

██████████

The IEP team convened on ██████████, at which time the District agreed to fund IEEs with two different agencies and the parent signed the necessary release paperwork for that process to begin. It is important to note that while parents must be provided with information about how to obtain an IEE without unnecessary delay, there is no timeline associated with when an IEE must be completed as they are often performed by private agencies. In this case, the two agreed-upon agencies submitted IEE reports on ██████████. An IEP team meeting to discuss the results of evaluations, determine eligibility for special education, and discuss educational placement was held on ██████████.

A subsequent meeting to develop the IEP was originally scheduled for ██████████; however, when the District emailed the parent a draft IEP a few days prior to the meeting, the parent replied indicating that the meeting would need to be rescheduled. The mutually agreed-upon meeting date was ██████████, at which point the IEP team reviewed and revised the IEP. Documents were sent to the parent the following day, and the parent provided partial consent on ██████████.

Allegation 1—Unsubstantiated

The first allegation in this matter is that the District failed to comply with Ed 1107.01(d), which, in relevant part provides that:

For reevaluations, the evaluation process must be completed within 60 days after receipt of parental consent or at the conclusion of any extension provided for in Ed 1107.01(e).

Specifically, the complainant asserts that the District did not complete the child's evaluation within the required period of time.

When the parent revoked consent for the District to proceed with evaluations, the 60-day timeline was terminated. The District agreed promptly to fund an IEE when requested by the parent. While it did take many months for the private agencies to complete the independent evaluations, there are no legal timelines imposed on those private agencies. Therefore, this allegation is not substantiated.

Allegation 2—Unsubstantiated

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

The IEP team must, no less than annually, convene to review and revise the Student's IEP and address, including but not limited to, the results of a reevaluation.

Specifically, the complainant asserts that the District did not review and revise the Student's IEP following the Student's reevaluation.

The District had attempted to convene the IEP team on ██████████, to review and revise the student's IEP with the evaluation results they had discussed prior, but that meeting was rescheduled at the parent's request. While NHED had received this complaint on ██████████, the IEP team convened several days later on ██████████. Given the efforts of the District to meet its required timelines, this allegation is not substantiated.

Conclusion

Procedurally speaking, the District did not violate any timelines related to completing its evaluations when it had parental consent, providing information about an IEE at public expense, or developing an IEP after the evaluations had been completed. Still, NHED understands that there was frustration with the length of time the evaluation process took in this case. While understandable, it appears as though the District did its best to abide by timelines when it was obligated to do so.

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