



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]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education State Complaint # 25-08

Dear [REDACTED]:

The New Hampshire Department of Education, Governance Unit ("NHED"), has concluded its investigation of special education state complaint # 25-08. 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 enrolled in the [REDACTED] ("the District"). During the complaint period, the child had one Individualized Educational Program (IEP) dated [REDACTED]. The nature of the allegations within this complaint are subject to the provision of extended school year (ESY) services, as well as other provisions of the IEP.

Allegation 1—Partially 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 a child with a disability in accordance with the child's IEP.

Specifically, the complainant asserts that the District did not provide agreed-upon summer tutoring or access to ESY during the summer of [REDACTED]. Additionally, the complainant asserts that the District has not provided the paraprofessional support or daily communication log as mandated by the child's IEP from the day school started on [REDACTED], until the time NHED received this complaint on [REDACTED].

Extended School Year (ESY)—Unsubstantiated

As documented in a written prior notice (WPN) dated [REDACTED], the IEP agreed that the child required 3 hours of reading instruction and 3 hours of math instruction per week for 5 weeks of ESY. Originally, the IEP team had added transportation to ESY in the child's IEP, it was later agreed that the child would receive services through private tutoring rather than at the school so that the child could attend summer camp. In [REDACTED], the District advertised for a tutor on their website, as well as EdJobsNH.com, but that only yielded one uncredentialed applicant. When the IEP team reconvened to discuss options on [REDACTED], the parent provided two names of possible tutors for the ESY services. A contract and invoice for the reading instruction was created between the District and [REDACTED], and service logs show that the child received those services in [REDACTED].

Arranging for a private tutor for the math instruction proved to be more challenging. In [REDACTED], various District staff and the parent communicated about two possible tutors to fill the position. One contender did not respond to the parent's efforts to reach out. The other contender was responsive but did not have availability to provide the services. When it became clear that a private tutor was not a viable option, email communications between the District and parent in [REDACTED] show that the original proposal for the child to attend ESY at the local school for the math services was still available. However, there was no record of the child attending ESY for these math services. A WPN dated [REDACTED], after this complaint was filed with NHED, shows that the District has offered the 15 hours of compensatory education for the math services that were not accessed.

The District provided the reading services outlined in the child's IEP and created multiple opportunities for the child to access math services, either through the ESY program at the school or through their multiple attempts at hiring a private tutor. Additionally, as the child did not receive math services over the summer, the District has offered to fully make up for any services that the child did not receive. For these reasons, this portion of the allegation is unsubstantiated.

Paraeducator Support—Partially Substantiated

According to the IEP amendment dated [REDACTED], the District is mandated to provide a 1:1 paraeducator for 29 hours per week in the regular education setting. According to the trimester 1 schedule, the child had the following paraeducator support by subject:

- Social studies: 2 paraeducators within classroom
- Literacy: 2 paraeducators within classroom
- FACS: 1:1 paraeducator
- English Language Arts: 2 paraeducators within classroom
- Science: 2 paraeducators within classroom
- Math: 2 paraeducators within classroom
- Tech: 1:1 paraeducator
- PE: 1:1 paraeducator

There are timeline nuances to this case that must be acknowledged. First, the complaint period was narrowly tailored to the time of [REDACTED], the date the complaint was received by NHED. It is important to note that the IEP amendment previously referenced has the services beginning on [REDACTED]. NHED does not understand the 6-day discrepancy between, presumably, the first day of school and the service date within the IEP, other than to possibly account of the disruption that can occur in those first few days of school. Still, the child began the school year with a 1:1 paraeducator in 3 out of 8 classes, and otherwise has multiple paraprofessionals in the 5 remaining classes. While the student was not provided the full paraprofessional support mandated by the IEP, the child was never without additional adult support during the school day. Moreover, a WPN dated [REDACTED] notes that, after this complaint was filed with NHED, the IEP team convened to change the language on the IEP service delivery grid to alter the provision of a “1:1 aide” to specify the type of support provided to instead read “cueing, prompting, and task completion.” Therefore, the child has since been supported in classes. While the District did its best to ensure that the student had either a 1:1 paraprofessional or multiple adult supports during the school day, the student’s IEP was not fully implemented. Therefore, this portion of the allegation is partially substantiated.

Daily Communication Log—Unsubstantiated

Upon examination of the IEP amendment dated [REDACTED], the complaint investigator only found reference to a home-school communication log referenced in the “parent concerns” section, not in the accommodations section. However, the District did provide a daily communication log used during the child’s previous school year with entries spanning [REDACTED]. This log was used in the elementary school for data collection. The child’s current middle school has its own mechanism used for similar purpose called [REDACTED]. It is clear that the daily log system used in the previous school year was a preferred method of communication as opposed to the new system at the current middle school. This lack of clarity resulted in a misunderstanding, but once clarified, the IEP team convened to add home-school communication log to the accommodation section of the IEP. Therefore, this portion of the allegation is unsubstantiated.

Conclusion

NHED understands that staffing shortages, particularly in special education, affect school districts and their families across the state. In these instances, creative problem-solving and

████████████████████

collaboration are needed to help support the student in the classroom. NHED acknowledges that the District is considerate of the parent's requests when possible, as evidenced by the provision of ESY services through a private tutor. NHED hopes the IEP team can continue to move forward with that spirit of collaboration.

Additionally, NHED hopes 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