



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]

RE: Special Education State Complaint # 25-13

Dear [REDACTED]:

The New Hampshire Department of Education, Governance Unit ("NHED"), has concluded its investigation of special education state complaint # 25-13. Based on the findings of facts 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 plan required of the school district to remedy any violations. The corrective action plan 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 within the [REDACTED]. During the [REDACTED] the child was in [REDACTED] at [REDACTED]. On [REDACTED], the complainant requested an initial special education evaluation via an email sent to the IEP Team Chair, the Associate Special Education Director, and the Director of Special Education. The complainant sent a follow up email on [REDACTED], as there was no response to her initial email. A meeting was held on [REDACTED], where the complainant signed a consent to evaluate. Once a consent to evaluate is received, the district has 60 days to complete the evaluation process. As such, the District needed to complete the evaluation process by [REDACTED].

On [REDACTED] the complainant had a meeting with the District, in which she was notified that not all evaluations were completed and the consent to evaluate was misplaced. At a meeting held on [REDACTED] the complainant was told that speech evaluation and cognitive evaluation had yet to be completed. On [REDACTED], the student was found to be eligible for special education under the Speech and Language Impairment category. An IEP meeting was then held on [REDACTED] but was not sent to the parent to be signed until [REDACTED].

Allegation 1—Substantiated

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

for initial evaluations, the evaluation process, as defined by Ed 1102.02(n)¹, shall be completed within 60 days after receipt of parental consent to evaluate.

Specifically, the complainant asserts that the District failed to complete the evaluation process within the required 60 days after receipt of the parental consent to evaluate. Consent to evaluate was signed on [REDACTED], therefore, the evaluations needed to be completed, and an eligibility meeting held no later than [REDACTED]. Here, the eligibility meeting was held on [REDACTED]—144 days after the [REDACTED] deadline—well in excess of the required 60-day timeline.

During the course of this investigation, the District recognized that it did not meet the required timeline as alleged and proposed a plan to rectify the allegation by offering to provide 6 months of compensatory services. These services would start on [REDACTED], and end on [REDACTED].

Conclusion

NHED appreciates the District's efforts to rectify the violation by proposing a compensatory service plan. NHED takes this opportunity to remind [REDACTED] that compensatory services can be offered during the summer months, but not during ESY services which are mandated by a child's IEP.

Additionally, as part of this investigative process, NHED identified additional procedural violations of special education law. While not specifically raised in this complaint, NHED takes this opportunity to identify these violations for the District with the request that they are properly addressed within the additional corrective action provided below:

- Not holding a referral meeting no later than 15 days after a referral to evaluate was submitted²;
- Not providing the required Written Prior Notice (WPN)³;

¹ Ed 1102.02(n): "Evaluation process" means the completion of initial evaluations, reevaluations and assessments, a written summary report, and a meeting of the IEP team to review the results of the evaluations and assessments. When the purpose of the meeting is to determine eligibility for special education and related services, the evaluation process also includes the determination of eligibility.

² Ed 1106.01(d) "The IEP team shall, within 15 business days of the referral, determine whether the concerns raised by the referral can be:(1) Addressed utilizing existing pupil support services available to all children; (2) Whether additional information is required; and (3) What evaluations, if any, are needed to address any remaining concerns raised by the referral"

³ 34 CFR 300.503(a) "Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child."

- Holding meetings without proper LEA attendance, to include someone knowledgeable about the availability of resources of the public agency⁴; and
- Drafting and providing a copy of the Individualized Education Plan (IEP) to the parent within 30 days after a child is found eligible for special education⁵.

It is NHED's understanding that the District recently experienced significant staffing turnover and is making efforts to conduct staff training sessions to address these areas of concern.

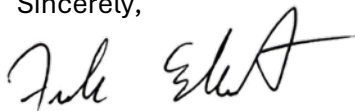
Corrective Action Plan

The [REDACTED] will convene a meeting with the IEP team to ensure their proposed compensatory service plan entails no less than 600 minutes of reading specially designed instruction, 1200 writing specially designed instruction, and 600 minutes of speech therapy. Evidence of the corrective action must be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301. Agreed upon plan of compensatory services to be submitted by [REDACTED] Evidence of completed compensatory services to be submitted by [REDACTED].

The School District will review their internal policies and conduct a training to special education personnel related to special education processes, meeting mandated timelines, and Written Prior Notices, to ensure compliance with state and federal requirements. Evidence of this corrective action must be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301 by [REDACTED].

NHED hopes that in the future the District and parent will work together to resolve any differences that may arise.

Sincerely,



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Commissioner of Education

⁴ 34 CFR 300.321(a)(4) The public agency must ensure that the IEP Team for each child with a disability includes— A representative of the public agency who—(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;(ii) Is knowledgeable about the general education curriculum; and (iii) Is knowledgeable about the availability of resources of the public agency.

⁵ 34 CFR 300.323(c) Initial IEPs; provision of services. Each public agency must ensure that—(1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.