



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 # 25-14

Dear [REDACTED]:

The New Hampshire Department of Education, Governance Unit ("NHED"), has concluded its investigation of special education state complaint # 25-14. 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] ("the District"). During the complaint period, the child attended the [REDACTED] during the [REDACTED] school year. The child began at [REDACTED] for this current school year, [REDACTED].

While attending [REDACTED] the child had an Individualized Education Plan (IEP) in which related services were mandated. Those services were as follows:

- 1 session of individual occupational therapy for 30 minutes weekly
- 1 session of group speech pathology therapy for 60 minutes weekly

At a meeting held on [REDACTED], it was discovered that the child was not receiving the mandated related services as outlined in the IEP. Upon this discovery, the IEP team convened to amend the IEP and both parties agreed to a plan for compensatory services. The original compensatory service plan included making up sessions over the summer months during the ESY session. However, the complainant declined to sign the proposed compensatory services plan as proposed. Ultimately,

both parties agreed to having the compensatory services begin in the fall and the IEP was amended to add 12 individual occupational therapy sessions and 24 individual speech pathology sessions—all of which were to be completed by [REDACTED]

On the complaint submission form, the complainant stated that she had made numerous attempts to communicate with the District during the summer months to coordinate the start of the compensatory services. Regardless, according to the investigative report, the compensatory services began in the fall at [REDACTED].

As of [REDACTED], the IEP team convened and determined that the child no longer qualifies for speech and language related services and that evaluations are needed to determine if further services are necessary in this area. At this same meeting, the IEP team also determined that further evaluations are necessary to see if the child still needs occupational therapy services.

Allegation 1—Substantiated

The allegation in this matter is that the District failed to comply with Ed 1109.03(a), which, in relevant part provides that:

The 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 the individual occupational therapy nor group speech pathology services as identified in the child's IEP. This alleged violation occurred during the time the child attended [REDACTED] and may be continuing into the present school year while the child attends [REDACTED]

The District recognized that they failed to provide the child with occupational therapy service and speech pathology therapy services which were mandated by the IEP. As such, the District collaborated with the complainant and the IEP team to remedy the missed services and provide compensatory services as discussed above.

Conclusion

In this case, the facts are clear that the child was entitled to certain services—individual occupational therapy and group speech pathology services—but did not receive all mandated services as provided in the IEP. As such, the District is required to provide compensatory services, which the District does not dispute and, as of the date of this letter, has started to provide said services.

The crux of this matter, however, is that in the process of providing compensatory services, the District believes that the child may no longer be eligible for speech and language and is in the process of conducting an evaluating in this area. The District will also do a similar evaluation to determine if occupational therapy services are still necessary. However, the sequence which occurred is reversed, as the law is clear that before determining that a child is no longer a child with

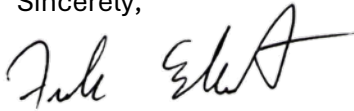
a disability, the District is required to conduct an evaluation.¹ Until such determination is made, the child is still entitled to compensatory services.

Corrective Action Plan

The [REDACTED] must continue with the agreed upon compensatory education plan while conducting the requested evaluations. Subsequently, if the child continues to qualify for special education services, the District and IEP team need to convene to create an updated plan to determine if compensatory services continue to be needed and how the services shall be provided. 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].

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

Sincerely,



Frank Edelblut
Commissioner of Education

¹ See 34 CFR §300.305(e)(1).