



**Frank Edelblut**  
Commissioner

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Deputy Commissioner

STATE OF NEW HAMPSHIRE  
**DEPARTMENT OF EDUCATION**  
25 Hall Street  
Concord, N.H. 03301

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: *Special Education Complaint # 23-40*

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-40. 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, a finding of noncompliance with special education law, then there will 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 background there were two Individual Education Plans (IEPs) with the following Extended School Year (ESY) services during the complaint period:

- IEP 1 dated [REDACTED]:
  - Speech- Group, 1x per week for 20 minutes
- IEP 2 dated [REDACTED], signed in partial consent by the parent on [REDACTED]:
  - Speech-Individual, 1x per week for 20 minutes
  - Speech-Group, 1x per week for 10 minutes (rejected by the parents, and deferred to the agreed-upon provision in the previous IEP of 1x/ week for 20 minutes)
  - Speech-Indirect, 1x per week for 15 minutes
  - Consult by BCBA, 1x per bi-weekly for 30 minutes

Additionally, during the investigation it was discovered that there was a 3-month gap between when IEP 1 ended, and IEP 2 began. There is no evidence to indicate that an IEP meeting occurred, or an IEP was proposed prior to IEP 2. Therefore, the department must conclude that there was no valid reason for the delay in creating a new IEP. This matter will be referred to the Office of Training and Monitoring for review.

**Allegation 1 - Substantiated**

The sole allegation in this matter is that the School 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 [REDACTED] District did not provide the required speech therapy or BCBA consult during ESY [REDACTED]

The student attended ESY [REDACTED] with no issue or notice of services not being provided. At the end of ESY, the district provided the parent a progress report, which lacked progress related to speech. On [REDACTED], the parent emailed the district inquiring about the speech reports. The following week, the Director of Pupil Services contacted the parent and left a message stating that speech services were missed for the student during ESY. The director followed up with an email acknowledging and apologizing for the lack of oversight. The school district also indicated they would be sending home documentation outlining the compensatory services owed to the student for the missed services. On [REDACTED], a Written Prior Notice (WPN), was provided to the parent indicating the student was owed the following services:

- 40 minutes of Speech-Group;
- 80 minutes of Speech- Individual;
- 60 minutes of Speech- Indirect.

After initial confusion regarding the rejection of the amount of time for Speech- Group, the WPN was amended on [REDACTED], to increase the group time to 80 minutes.

Service logs indicate that the student received the following compensatory services.

- Speech- Individual (total 90 minutes)

[REDACTED]

- Speech- Group (total 20 minutes)

[REDACTED]

- Speech- Indirect (total 45 minutes)

[REDACTED]

[REDACTED]

Based on the information provided, the student is still owed 60 minutes of speech-group and 15 minutes of indirect speech.

Although the original allegation included concerns regarding the required BCBA consultation, service logs and payroll reports indicate that the student received the consult service on at least 5 occasions during ESY, which is more than what was required in the IEP.

**Conclusion:**

The Department is concerned by the number of mishaps and lack of oversight discovered in this investigation. [REDACTED]

[REDACTED] Although the mistakes identified in this complaint could be attributed to simple human error, the [REDACTED] the opportunities for non-compliance would have been minimalized. Although the district did admit their fault and offer compensatory services, they have yet to completely fulfill their end of the agreement.

**Corrective Action:**

The School District will convene an IEP team meeting to explicitly state how and when the student will receive 60 minutes of speech- group and 15 minutes of indirect speech. Evidence of this corrective action must be submitted to the Department of Education, 25 Hall Street, Concord NH 03301 by [REDACTED]

The School District will review and amend as necessary their internal polices related to special education IEP compliance in accordance with state and federal requirements. Evidence of this corrective action must be submitted to the Department of Education, 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