



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Re: Special Education Complaint # 23-46

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-46. 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, the student has an IEP through [REDACTED] and attends the [REDACTED] Chartered Public School.

Allegation 1 - Substantiated

The sole allegation in this matter is that the School District, [REDACTED] failed to comply with RSA 194-B:11, III (b), which, in relevant part provides that:

When a child is enrolled by a parent in a chartered public school, the local education agency of the child's resident district shall convene a meeting of the individualized education program (IEP) team and shall invite a representative of the chartered public school to that meeting. At the meeting, the IEP team shall determine how to ensure the provision of a free and appropriate public education in accordance with the child's IEP.

For all subsequent meetings of the IEP team, the child's resident district shall provide prior notice to the representative of the chartered public school. The child's special education and related services shall be provided using any or all of the methods listed below starting with the least restrictive environment:

- (1) The resident district may send staff to the chartered public school; or
- (2) The resident district may contract with a service provider to provide the services at the chartered public school; or
- (3) The resident district may provide the services at the resident district school; or
- (4) The resident district may provide the services at the service provider's location; or
- (5) The resident district may contract with a chartered public school to provide the services; and
- (6) If the child requires transportation to and/or from the chartered public school before, after, or during the school day in order to receive special education and related services as provided in the IEP, the child's resident district shall provide transportation for the child.

The complainant asserts that [REDACTED] refused to provide in-person special education services for their child who was attending the [REDACTED] Public Chartered School.

In the child's previous IEP, the parent had agreed to remote services. In the annual IEP meeting on [REDACTED] however, the parent requested the services to be provided in-person. The district provided a Written Prior Notice (WPN) on [REDACTED], stating that the district was refusing to provide in-person services, as it is the right of the district to provide special education services at their discretion in the least restrictive environment pursuant to the law. However, the district did not provide the exact law that provides the district with this ability. Given that remote instruction is not one of the methods enumerated in RSA 194-B:11, III(b), the Department is unsure of what statutory reference the district maybe be referencing.

Conclusion:

The crux of this allegation is that the district is obligated to provide special education services to students who attend chartered public schools in accordance with RSA 194-B. None of the permissible options listed in the statute include remote special education services, especially without parental agreement.

Corrective Action:

The School District will convene an IEP team meeting to determine how the child will receive their special education services in accordance with one of the provisions enumerated in RSA 194-B:11, III (b). Evidence of the corrective action must be submitted to the Department of Education, Office of Special Education Complaints, 25 Hall Street, Concord, NH 03301 by [REDACTED].

The School District will review their internal policies related to special education provisions for students enrolled in public chartered school and revise, if necessary, to ensure compliance with state and federal requirements. Evidence of this corrective action must be submitted to the Department of Education, Office of Special Education Complaints, 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