



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 # 23-47

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-47. 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.

During the complaint period, there was an Individualized Education Program (IEP) signed by the parent on [REDACTED] which was valid from [REDACTED]

Allegation 1- Unsubstantiated

The allegation in this matter is that the [REDACTED] District failed to comply with Ed 1124.02, which, in relevant part provides that:

When a child with disabilities has been removed from the child's current placement for more than 10 days, the local education agency (LEA) shall provide service necessary to provide the child with a disability an opportunity to progress in the general education curriculum consistent with

the child's IEP. Such services, if provided at the child's home, shall consist of: (a) a minimum of 10 hours/week of instruction, including special education as specified in the child's IEP; and (b) related services as specified in the child's IEP.

Specifically, the complainant asserts that the district had not provided the required services since the student was removed to an interim home-based placement between [REDACTED], when the complaint was received.

By way of relevant background information, during the investigative process, the investigator discovered that parent had moved to [REDACTED] with her other children during [REDACTED]. That information was not shared with [REDACTED] until [REDACTED]. While the child continued to live with the grandparents during the complaint period, the grandparents were not the legal guardians of the child. Therefore, [REDACTED] deemed the child to be "homeless" pursuant to the McKinney-Vento Act¹ and proceeded to provide the required services to the child under that provision. As such, [REDACTED] provided evidence and documentation that 10 hours per week of instruction, in addition to services in accordance with the child's IEP, were provided while the child was in the home-based placement from [REDACTED].

Conclusion:

There is no technical violation on the part of the district for failing to provide special education services in accordance with the child's signed IEP. It seems like the deep-rooted frustration of the parent stems from the appropriateness of the child's placement in a general education setting versus a separate approved special education program/school or residential placement. First, the Department recommends that the parent and [REDACTED] meet to confirm where the parent resides to identify to which school district the child belongs. From there, the parent and school district can hold a Team meeting to make a placement decision in accordance with Ed. 1111.03 (34 CFR 300.116).

Conclusion:

No corrective action is necessary.

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

¹ The McKinney-Vento Homeless Assistance Act is a federal law that stipulates, in part, that schools must provide special education services to unaccompanied youth who are not in the physical custody of a parent or guardian.