



Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

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

[REDACTED]

Re: Special Education Complaint # 23-51

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-51. 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.

The child had two Individualized Education Programs (IEP) during the complaint period, which was from [REDACTED]. The current IEP is dated [REDACTED] and was signed in partial consent by the parent on [REDACTED]. However, the crux of this complaint fell during the former IEP, which was dated [REDACTED] and was signed in consent by the parent on [REDACTED]. This former IEP mandated the following specially designed instruction, which serve as the basis of this allegation:

- 30 sessions for 30 minutes each of written expression in a regular education setting;
- 60 sessions for 30 minutes each of reading in a special education setting;
- 30 sessions for 15 minutes each of written expression in a special education setting;
- 60 sessions for 15 minutes each of mathematics in a special education setting;
- 60 sessions for 20 minutes each of occupational therapy in a regular education setting;

- 150 sessions for 30 minutes each of academic support from a paraprofessional in a regular education setting.

Allegation 1- Substantiated

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

The local education agency (LEA) shall provide special education, related services, supplementary aids and services, accommodations, modifications to a child with a disability in accordance with the child's IEP.

Specifically, the complainant asserts that the [REDACTED] District has not provided the specially designed instruction agreed to in the IEP for the duration of the [REDACTED] school year.

The child began the [REDACTED] school year when his former IEP was in effect, indicating that [REDACTED] should have received specially designed instruction in the areas of reading, written expression, and mathematics from the start of the school year. These sessions were mandated to take place from [REDACTED] [REDACTED]. The investigator found no documentation of any of the aforementioned academic services having been provided between the timeframe of [REDACTED], a total of 25 school weeks. However, the child did receive 60 sessions of occupational therapy for 20 minutes each in a regular education setting; to confirm whether these services occurred, the investigator reviewed IEP Team meeting notes and parent emails and concluded that the child had been seen by an occupational therapist in Language Arts and Social Studies classes. Additionally, the investigator found that the child did receive support from a paraprofessional as was mandated in both the former and current IEPs.

Conclusion:

Upon receipt of this complaint, the district began a review of service logs, teacher communications, and meeting minutes and went about trying to resolve the concerns of the parent through a proposed plan of compensatory services and adjusted IEP that was awaiting parent response as of [REDACTED]. In an email to the Department, the district admits to a "quality issue" that is being addressed. While these are noble admissions of self-awareness, it stands that actions need to be solidified to correct this oversight. For a student to miss 25 school weeks of specially designed instruction in the crucial areas of reading, written expression, and mathematics is an egregious error. This amounts to 43.75 hours of instruction in a special education setting and 10 hours in a regular education setting. It raises the question of how progress monitoring data relating to IEP goals and objectives could be collected and accurately reported on to the parent when these services were not taking place.


Corrective Action:

Compensatory:

Since so much academic service was missed in the previous school year, it is imperative that the school district have a plan in place as the new school year begins. The school district will convene an IEP team meeting to finalize a plan for compensatory services so that the child can make progress on the current IEP goals and objectives. 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]



Regulatory:

To allow for teacher professional development to take place at the start of the school year, the school district will review their internal policies and procedures related to special education IEP goal/objective progress monitoring, if necessary, 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 

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