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Commissioner

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[REDACTED]  
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[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

*Re: Special Education Complaint # 23-55*

Dear [REDACTED]:

The New Hampshire Department of Education, Bureau of Special Education, has concluded its investigation of complaint # 23-55. 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 student and the appropriate future provision of services for all students with disabilities.

By way of relevant information, the student had an Individualized Education Program (IEP) during the complaint period that was active from [REDACTED]. The [REDACTED] school year was the student's senior year of high school, and the student graduated with a high school diploma on [REDACTED]. The Department extends its congratulations to the student for this commendable accomplishment.

### **Allegation 1 - Substantiated**

The first allegation in this matter is that the [REDACTED] District failed to comply with Ed 1109.06(d), which, in relevant part provides that:

The local education agency, annually, shall conduct at or near the end of the term of each IEP, a meeting for the purpose of assessing the effectiveness of the present plan and to design an IEP.

Specifically, the complainant asserts that the District's IEP team members failed to attend an IEP meeting scheduled for [REDACTED].

On [REDACTED], the parents were contacted by two district staff members regarding the student's upcoming IEP annual review: by the case manager to solicit parental input for the updated IEP and also by the administrative assistant to schedule the review meeting for [REDACTED]. The parent confirmed that the [REDACTED] would be fine; however, the day of the meeting, the parent contacted the school to reschedule due to an unforeseen conflict, stating they would reschedule following the [REDACTED] school vacation.

From [REDACTED], the parents exchanged emails with the administrative assistant and case manager regarding times to reschedule the IEP team meeting. Emails from district staff stressed the importance of trying to meet prior to the IEP end date of [REDACTED]. Emails from parents expressed frustration over the pressed timeline. Ultimately, a remote meeting was scheduled for [REDACTED]. While the parents were in attendance at the remote meeting, there were not enough district representatives to form an IEP team as the case manager did not arrive until 20 minutes after the meeting start time. By that time, the parents had already exited the meeting. Later that afternoon, the case manager contacted the parent to apologize.

Over the next several days, district staff made more attempts to reschedule the IEP team meeting so that the student could have an updated IEP for the last month of school, as well as to discuss post-secondary support. On [REDACTED], the District sent a written prior notice (WPN) stating that the school would continue to provide special education in accordance with the student's now-expired IEP until a new one could be developed. On [REDACTED], the parent stated in an email that they would not attend another IEP meeting.

### **Allegation 2 - Partially Substantiated**

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

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

Specifically, the complainant asserts that the District did not provide services agreed to in the IEP for the duration of the [REDACTED] school year.

There were two facets to this allegation: the first was that the District did not provide support from the Teacher of the Deaf in accordance with the IEP and the second was that the District did not provide regular, consistent communication or updates related to content vocabulary and areas of language focus to the parents.

Pertaining to the services from the Teacher of the Deaf, the Department does not substantiate this portion of the allegation. According to service log documentation, the Teacher of the Deaf provided 90 minutes of direct services across 3 sessions, as well as 90 minutes of consultation to staff across 6 sessions. The IEP mandated direct service and consultation to staff be 60 total minutes across 4 sessions for each category. Therefore, the District met the quantity of services dictated in the IEP.

As for the home-school communication accommodation<sup>1</sup>, the Department does substantiate this portion of the allegation. While the Department recognizes the District's position that online education platforms [i.e. ██████████] may be a venue through which teachers post content related to vocabulary and areas of language, the District could not provide evidence to support that this was done. The District provided IEP progress notes for goals related to writing assignments and self-advocacy, but the Department considers these separate from the home-school communication accommodation.

### **Conclusion**

The ██████████ District attempted to meet its legal obligation to schedule an IEP annual review meeting within the appropriate timeline but a last-minute cancellation, a school break, and an unfortunate tardiness all worked against the IEP team. Due to the student's graduation status, no corrective action is issued. The Department hopes the District will review its systems related to scheduling and accommodation implementation for any opportunities to improve. The Department also wishes the student a successful university semester.

Frank Edelblut  
Commissioner of Education  
NH Department of Education

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<sup>1</sup> The student's IEP included the accommodation: "[Student's] parents will receive regular updates on content vocabulary and areas of language focus, so they can reinforce language at home."