

Dispute Resolution Recommendations and Action Steps

In March of 2024, the Governance Unit within the Department of Education received the State Of New Hampshire Special Education Dispute Resolution Process Performance Audit Report March 2024, which provided the observations and recommendations from the Office of the Legislative Budget Assistant (LBA). The unit is committed to transparency and accountability in our operations. We actively work to improve public access to information regarding the special education dispute resolution process, to assist eligible New Hampshire students and families with disabilities.

The Governance Unit embraced the work of the audit team and created a 'roadmap' that is designed to utilize the observations and recommendations from the audit to enhance and improve the dispute resolution process in New Hampshire. The audit recommendations had three (3) focus areas: Management Control, Regulatory Framework, and Performance and Enforcement for a total of 20 observations. The updates in this document share the Observations within each focus area and the Department's response to the observations therein.

Management Control

Observations	In process	Complete
1. Improve oversight of internal controls	X	
2. Develop strategic management controls	X	
3. Improve controls over organizational structure	X	
4. Formalize stakeholder engagement and collaboration processes	X	
5. Develop and implement contract management controls	X	
6. Implement strategic contracting processes and assessments	X	
7. Improve controls over conflicts of interest	X	
8. Obtain an understanding of costs and develop financial controls		X

In response to Management Control observations, the Department has taken the following action steps:

The Unit has begun to hold structured weekly meetings with all members of the unit to set priorities. During these meetings, we also discuss areas of necessary trainings. These meetings allow the unit to identify and strengthen internal and management controls as well as reviewing procedures and providing necessary training for the team. The Unit is in the process of creating a formal policy manual. This policy manual incorporates the Department's overall vision and applies it to the Governance Unit. The Governance Unit has always had policies and procedures to guide the work of the bureau in varying degrees of documentation, including informal and

more formally documented. However, the policy manual will codify the policies and procedures in one place to help both the bureau and future audits.

Moving forward it is anticipated that the Unit will include a provision on conflicts of interest into the contracts for the hearing officers and special education complaint investigators, which will layer on top of the existing conflict of interest requirements of the licensed professionals supporting that work. The policy manual will also address conflicts of interest, which was identified in the audit. As stated, this will layer on top of the ethics regulations for conflicts of interest required for hearing officers, which are also licensed attorneys.

The Unit has been working on the creation of dashboards and continues to do so in order to develop performance measures and track the execution of its work. The Unit recently budgeted funds to purchase an upgraded tracking software for the dispute resolution process. It should be noted that the Unit currently utilizes an Access database for this purpose. As this is an older software model, the Unit eagerly anticipates utilizing new software to accomplish this task.

The Unit is also holding a comprehensive Hearing Officer training on June 10th and the Unit will continue to hold such trainings on a regular basis, as it has done in the past. Hearing Officers are also encouraged to attend national level training sessions offered several times a year by CADRE, the National Center for Appropriate Dispute Resolution. CADRE supports State Education Agencies (SEAs), Lead Agencies (LAs), and federally funded Parent Centers in 1) building local level capacity to prevent and resolve disputes, and 2) developing more effective and equitable dispute resolution (DR) systems. In addition, the Unit acts in a supporting role by assisting the Bureau of Special Education Support with responses to information requests and queries made by the State Advisory Committee on the Education of Students/Children with Disabilities (SAC).

Moving forward it is anticipated that the Unit will be creating a 30 hour-per-week, special education investigator position in addition to having two contractor, special education investigator positions. This new approach will allow the Unit to keep pace with the increasing number of complaints as well as the complexity of said complaints.

Finally, the Unit has improved internal controls and communication with the Special Education Bureau and the Business Office as it pertains to the invoice process and contracts so that both processes are more streamlined and effective.

Special Education complaint investigators have been issued Department affiliated email addresses. The Unit is also in the process of developing participant feedback surveys to be issued at the conclusion of the special education process.

The Unit has also improved internal controls and communication with the Special Education Bureau as it pertains to the follow-up on dispute resolution decisions.

It is important to note that the rulemaking authority belongs to the Board of Education and not the Department. The Unit and the Bureau of Special Education continues to review the applicable administrative rules to ensure that they are accurate.

Regulatory Framework

Observations	In process	Complete
9. Implement and monitor federally required rules and processes	X	
10. Improve, implement, and monitor state dispute resolution requirements	X	
11. Comply with the Administrative Procedure Act	X	
12. Develop policies and procedures	X	
13. Improve NHED resource and guidance materials	X	
14. Provide stakeholder training and education	X	

In response to these observations, the Department has taken the following action steps:

The Unit is in the process of creating a formal policy manual. This policy manual incorporates the Department’s overall vision and applies it to the Governance Unit. Historically, the Department has always had various policies and procedures in varying degrees of documentation, including informal and more formally documented. However, the policy manual will codify the policies and procedures in one place to help both the bureau and future audits.

Subsequent to the issuance of the audit, the Unit and the Special Education Bureau recently worked with the chairs of the House Education Committee to draft a non-germane amendment which would have, amongst other things, required the Department to notify parents who refused to provide consent to their child’s individualized education program (IEP) with a description of the available resolution processes and sources for information or assistance in pursuing resolution. The proposed amendment also would have allowed for the Department to document the number and type of parental refusals of services or placements for students with disabilities proposed in individualized education programs and to track the resolution of those parental refusals. Additionally, the proposed amendment would have allowed school districts to develop options for alternative dispute resolution which could be utilized at the local district level with those plans being submitted to the Department for review and local districts would have been required to submit information relating to the methods of alternative dispute resolution that have been used within the district each year.

The Unit and the Special Education Bureau continues to work collaboratively with stakeholders to finalize an updated Parents Guide. The Unit is currently working with a parent advocate and the local law school to develop a program that would provide legal guidance to parents who are engaged in the dispute resolution process.

As noted in the audit, the Unit has documents and resource on its website available to the public. The Unit continually strives to make this information easier to understand and readily accessible to the public. The Unit consistently works to ensure that these materials are comprehensive and formalized.

The Unit has also improved internal controls and communication with the Special Education Bureau as it pertains to the follow-up on dispute resolution decisions.

It is important to note that the rulemaking authority belongs to the Board of Education and not the Department. The Unit and the Bureau of Special Education continues to review the applicable administrative rules to ensure that they are accurate.

The Unit and the Bureau of Special Education is working on procedures to guide our stakeholder engagement activities.

Performance Enforcement

Observations	In process	Complete
15. Develop and implement performance management controls	X	
16. Monitor LEA compliance and implement enforcement actions		X
17. Develop controls over dispute resolution agreements	X	
18. Develop a public communication system		X
19. Develop records management and data controls	X	
20. Improve management of confidential materials	X	

In response to these Performance Enforcement observations, the Department has taken the following action steps:

The Unit is in the process of creating a formal policy manual. This policy manual incorporates the Department’s overall vision and applies it to the Governance Unit. Historically, the Department has always had various policies and procedures in varying degrees of documentation, including informal and more formally documented. However, the policy manual will codify the policies and procedures in one place to help both the bureau and future audits.

The Unit and the Special Education Bureau is scheduled to work with the National Center for Systemic Improvement (NCSI) this summer to further develop policies and identify areas where the Department is out of compliance with state and federal regulations.

The Unit has been working on the creation of dashboards and continues to do so in order to develop performance measures and track the execution of its work. The Unit recently budgeted funds to purchase an upgraded tracking software for the dispute resolution process. It should be noted that the Unit currently utilizes an Access database for this purpose. As this is an older software model, the Unit eagerly anticipates utilizing new software to accomplish this task.

During the audit process, it was identified that the Unit has more authority over the dispute resolution processes at the local school district level than it has historically exercised. The Unit is interested in exploring this opportunity but will do so cautiously to avoid any potential legal action by school districts against the agency. However, by way of taking action in this area, subsequent to the issuance of the audit, the Unit and the Special Education Bureau recently worked with the chairs of the House Education Committee to draft a non-germane amendment which would have, amongst other things, required the Department to notify parents who refused to provide consent to their child’s individualized education program (IEP) with a description of the available resolution processes and sources for information or assistance in pursuing resolution. The proposed amendment also would have allowed for the Department to document the number and type of parental refusals of services or placements for students with disabilities proposed in individualized education programs and to track the resolution of those parental refusals. Additionally, the proposed amendment would have allowed school districts to develop options for alternative dispute resolution which could be utilized at the local district level with those plans being submitted to the Department for review and local districts would have been

required to submit information relating to the methods of alternative dispute resolution that have been used within the district each year.

The Unit anticipates working with the Division of Personnel to review supplemental job descriptions (SJD) and class specifications to ensure all required roles and responsibilities are adequately covered and addressed. The Unit will likely take the opportunity to address this issue at one of our weekly Unit meetings.

It is important to note that the rulemaking authority belongs to the Board of Education and not the Department. The Unit and the Bureau of Special Education continues to review the applicable administrative rules to ensure that they are accurate.