

Complaint Investigation Report
Parent v. RSU #60/MSAD #60
Complaint 18.112C
Complaint Investigator: Jeannette Sedgwick
July 31, 2018

The Department of Education received this complaint on June 13, 2018. The complaint investigator reviewed all documents, information, and responses from the parties. Interviews were conducted with the District's special education director and the Student's special education teacher on July 24, 2018. The complaint investigator interviewed the complainant on July 26, 2018.

Allegations that were not already addressed in the mediation agreement dated April 25, 2018 were addressed in this investigation.

FACTUAL FINDINGS

1. The Student is 16 years old and qualifies for special education under the disability of emotional disturbance. The Student's IEP Team decided upon this eligibility criteria in March 30, 2018 based on recent evaluations and information from the Student's parent and teachers. This evaluation stated that the Student has diagnoses of a disruptive mood dysregulation disorder, intermittent explosive disorder, reactive attachment disorder, and has symptoms of PTSD.
2. The Student has been enrolled at the Mary Hurd Academy since April 10, 2018. Mary Hurd Academy is an alternative school for students in grades 6-12 that combines core academics, experiential learning opportunities, and positive behavior support. This setting was the agreed-upon setting for the Student's education.
3. On school days from April 10, 2018 to April 30, 2018, the Student had difficulty getting to school. Once he started school, on April 30, 2018 when a staff member picked him up, the Student participated in classes and school activities. In mid-May, the Student started to miss school on a more regular basis.
4. The Student's IEP that was in place at the time the Student transferred is dated 4/10/2018. This IEP states that the Student will receive specially designed instruction by a special educator in a special education setting 6.5 hours/5x week, ESY for 12 hours/week for five weeks, and social work services 3 hours annually. This IEP specifies that the Student will be attending Mary Hurd Academy in a special education setting for his high school setting.
5. In mid-May 2018, the complainant requested that the evaluator of the March 2018 psychological assessment revise some facts on the evaluation, such as the Student's attendance at preschool, the Student's meeting developmental milestones, the time it took

for the Student to complete the evaluation, and a statement about an email from the complainant that was included in the evaluation. As a result of that request, District staff corresponded with the evaluator to explain the request, and the evaluator responded that two of the concerns listed were not in the report (the Student's meeting developmental milestones and the time it took to complete the report), and that, in essence, removing a reference to the email was not warranted based on the information given. The complainant received these responses and on May 23, 2018 asked for a face-to-face meeting to correct "errors, wrong dates, timelines, and more." The District responded on May 24, 2018 that the evaluation would not be changed and that the complainant could write a rebuttal which would be affixed to the evaluation.

6. On June 14, 2018, an Amendment to the Student's IEP was created to provide transportation to the Student to and from school. At this time, the Student's mathematics goal was updated, a functional goal was added, and particular supplemental aids for the Student were revised.
7. Staff at the Mary Hurd Academy provided consistent outreach to the Student and the Student's family, including offers to pick up the Student before school, frequent check-ins during the day, and discussions with the family when the Student has having difficulties with school-related anxieties.
8. The Student was in attendance 19 days and was absent 16 days from April 2018 to the end of the school year.
9. The progress report dated June 20, 2018 regarding the Student's two goals for coping strategies states that the Student "has chosen to not meet with the school social worker." The progress report for mathematics contains a narrative about the Student's personal finance class, which does not address the goal of "writ[ing] a function that describes a relationship between two quantities with 90% accuracy as measured by collected work samples."
10. The Student is eligible for ESY for the summer of 2018; he has not attended.

DETERMINATIONS

1. The District has not implemented the Student's IEP since April 25, 2018. MUSER IX(3)(B)(3). **COMPLIANCE FOUND.**

The complainant stated that there were things on the IEP that she did not agree with, particularly with the wording of some of the Student's disabilities.¹ She believes that the school

¹ The Student had been disciplined prior to the time of this complaint. The complainant spent much of the interview with the complaint investigator discussing her belief of the unfairness of the disciplinary action, which is not part of this complaint because of a mediated agreement which the complainant signed. Additionally, at the end of the interview with the complaint investigator, the complainant stated that she was going to request a hearing on the same issues

where the Student currently attends, an agreed-upon placement, is not educationally based and is not where the Student belongs. The complainant believes that the Student would do best at another school through a Superintendents' Agreement.²

The Student's schedule from April until the end of the school year shows that the Student was receiving instruction in mathematics, science, and social thinking by a certified special education teacher and received all other classes, including social studies, physical education, and English, by another certified special education teacher. He received other services by a certified and licensed social worker. His IEP has been implemented. The complainant and the District both agree that he is doing very well at Mary Hurd Academy.

The Student has not attended ESY. The complainant stated that he will not be attending because she does not want to send the Student to school because of the former disciplinary actions against him by the District.

2. The IEP Team has not created IEPs for the Student since April 25, 2018, that take into account his diagnosed disabilities such as a mood disorder. MUSER VII(2).

COMPLIANCE FOUND.

The complainant is concerned that the IEP and IEP Amendment created in the spring of 2018 do not fit his needs. The complainant was not clear about what needs she believed would be addressed in another IEP.

The IEP for the Student states his qualifying disability as emotionally disabled and contains appropriate goals and accommodations. For instance, one goal that addresses his emotional disability on his IEP is a functional goal of "accessing coping strategies when frustrated on 9 of 10 occasions as measured by daily documentation and teacher observation." Additionally, the setting of the Student's educational program incorporates many accommodations that are given to all students who attend, such as personal check-ins throughout the day, rides to and from school by District staff, social work and behavioral modifications incorporated into the curriculum, and a very small student/teacher ratio of 30 students with 4 teachers, 6 Ed Techs, and one full time social worker.

3. After receiving a request to amend a psychological evaluation in the Student's record, the District did not inform the parent of the refusal and advise the parent of the right to a hearing under 34 CFR 300.619; MUSER XIV(8). **NON-COMPLIANCE FOUND.**

raised in this complaint. At the time of this report, the request has not been received by the Department.

² The complainant and District had previously pursued the possibility of attending another school through a Superintendent's Agreement; however, Superintendent's Agreements require an agreement by both schools, which did not occur here.

Maine Unified Special Education Regulations state that if a parent believes that information in the education records collected, maintained, or used are inaccurate or misleading, the parent may request amending the information. Within a reasonable amount of time of receipt of the request, the district must decide whether it will amend the record or not. If not, the district must inform the parent of the refusal and advise the parent of the right to a hearing. MUSER XIV(8).

In this instance, the District responded within a reasonable time to the complainant's request to amend the records.³ The District did not include information about the complainant's right to a hearing regarding student educational records. Corrective action is required.

CORRECTIVE ACTION REQUIRED BY THE DISTRICT

1. By September 15, 2018, the District will provide information to the complainant that she has a right to a hearing by the District regarding student records.
2. By September 15, 2018, the District will send a memorandum to all District administrators reminding them of District responsibility under XIV(8).

³ Email correspondence from the complainant shows that she requested a meeting to discuss what she felt was erroneous in the evaluation.