

**Complaint Investigation Report
Parent v. Hermon Public Schools
Complaint 19.083C
Complaint Investigator: Jeannette Sedgwick
May 13, 2019**

COMPLAINT INVESTIGATION REPORT

The Department of Education received this complaint on March 19, 2019. The complaint investigator reviewed all documents, information, and responses from the parties. On April 18, 2019, the investigator conducted interviews with the parent. During the week of April 22-26, 2019, the investigator interviewed the person who drives the District's specialized transportation bus, the Student's case manager and IEP Team member, and an aide who worked with the Student. The investigator interviewed District staff, including the director of special education, the Student's current teacher, and the Student's former teacher on May 2, 2019.

The investigation covers the time period from March 19, 2018 through the present.

FACTUAL FINDINGS

1. The Student currently attends fifth grade in the District's Middle School. He qualifies for special education and related services based on multiple disabilities of autism and a hearing impairment. He is described as a happy, engaged, and successful student.
2. The parent is happy with the Student's educational services in the District and stated that the Student has made considerable progress. She is appreciative of the supportive staff who work with the Student.
3. Since the parent moved into the District, the District and parent have worked together collaboratively, with excellent results for the Student,
4. The Student moved into the District at the start of the 2017-2018 school year. The IEP from the previous District did not specify specialized transportation as a related service.
5. Last year, when the Student first started the 2017-2018 school year, District staff and the parent agreed that the Student would receive specialized transportation. The Student rode the bus to school for a period of time, usually in the mornings, and the parent chose to transport the Student at the end of the school day. The bus driver and other District staff stated that the Student received transportation for a good portion of the 2017-2018 school year. The aide that rode the bus with the Student stated that she

assumed that the Student's IEP contained transportation because that is the "only way" he would have been able to ride the bus.

6. The agreement for the Student to receive transportation appears to have been made outside the IEP process. The decision for the Student to ride the bus occurred in an informal way when District staff was reviewing the bus schedule prior to the school year and prior to the current director's tenure in the District.
7. The IEPs put into place during the 2018-2019 school year did not specify transportation as a related service.
8. In October 24, 2019, the parent asked about transportation services after a meeting to discuss restraints and seclusions of the Student ("Chapter 33 meeting"). The parent asked to talk about the cessation of transportation services with the Student's teacher and the special education director at the end of or immediately after the meeting. The special education director stated that at that time that she would look into whether the Student had received specialized transportation in the past.
9. No communication about transportation occurred between October 24, 2018 and March 5, 2019, when the Student's annual IEP meeting was held. According to the written notice, the Student's IEP Team discussed evaluations and the Student's progress.
10. In the afternoon of March 5, 2019, after the IEP Team meeting and after the end of the school day, the parent emailed the special education director, stating that she had forgotten to discuss transportation at the IEP Team meeting that day. The director responded immediately to confirm that the parent was requesting specialized transportation. The parent responded that the Student had received transportation services during the last school year and did not know why that service was removed. That same day, the director stated in an email that she would "look into it." The director found no transportation on the Student's IEPs.
11. On March 11, 2019, the parent requested the IEP Team convene to discuss the issue of transportation after the director emailed her to discuss the issue. The director scheduled a meeting to occur two days later, on March 13, 2019. That meeting was cancelled because of an emergency health issue relating to District staff.
12. At the end of that week, on March 15, 2019, the parent emailed the director that transportation had been removed from the Student's IEPs and that she wanted it to be part of the Student's services. The District scheduled an IEP meeting to discuss transportation to occur on March 25, 2019. The meeting did not occur according to the parent's request.

DETERMINATIONS

The parent alleged the following:

1. The District amended the Student's IEP without parental input. Specifically, the complainant stated that the District removed the related services of transportation from the Student's IEP so that the Student no longer is transported to his educational programming. MUSER IX(3)(C)(2)(d)(6).

COMPLIANCE FOUND.

The Student received transportation at least one time each day when the Student first moved into the District even though this related service was not in the Student's IEP. Based on the documentation, transportation never appeared on the Student's IEPs during the time he was in the District.

The parent's perspective is that because this related service had been provided in the past, transportation should appear on the current IEP. Because the IEP never contained transportation services, there was no removal of those services without parental input. Students are not entitled to special education and related services that do not appear on the IEP.¹

There is no violation of law or regulation regarding this allegation.

2. The parent requested an IEP Team meeting to discuss the Student's transportation and the District did not schedule a meeting. MUSER IX(3)(D)(1).

NON-COMPLIANCE FOUND; NO DENIAL OF FAPE FOUND.

After a meeting in October 2018, the parent requested transportation for the Student. This request occurred during or immediately after an IEP meeting where the topic of transportation could have taken place. The special education director did not respond to this request until several months later and by not timely responding, did not comply with law and regulation. This procedural violation did not deny FAPE to the Student, who is progressing toward his annual goals according to the documentation and information gained during interviews with the parties.

When the parent requested transportation again on March 5, 2019, a few hours after attending the Student's annual meeting, the director responded immediately by asking for clarification. Less than a week later, on March 11, 2019, the parent requested an IEP Team

¹ The Department notes that if the District and parent wished to make changes to the Student's services without convening the IEP Team, there should have been a written document to amend or modify the Student's current IEP. MUSER IX(3)(C)(2)(4). Changes to a child's educational services must be formalized through an IEP Amendment or IEP Team process. MUSER IX(3)(C)(2)(4).

meeting about transportation and the director scheduled a meeting for two days after the request. This meeting was postponed for a very short time because of an emergency, until March 25, 2019.

No corrective action is ordered. On March 11, 2019, after the parent's request for another IEP Team meeting, the District acted promptly to convene the Team to discuss the Student's needs regarding transportation.² The District's actions of scheduling an IEP meeting immediately after the request is the remedy for the procedural violation that occurred in October 2018. The director scheduled that meeting to occur on March 25, 2019. The IEP Team may wish to convene again in accordance with the Maine Unified Special Education regulations to discuss the Student's transportation needs.

² Parental participation in the Student's education had been guaranteed in the IEP Team meeting the day of the request. MUSER VI(2)(H).