

██████████ v. Portland Public Schools

Complaint 19.116CS

Complaint Investigator: Jeannette Sedgwick

July 2, 2019

COMPLAINT INVESTIGATION REPORT

Systemic complaints are those that allege the District has a policy or practice that has resulted in a violation of Maine Unified Special Education Regulations (MUSER) and is, or has the potential to be, applicable to a group of students, named or unnamed. The Department of Education received this systemic complaint on May 30, 2019.

At a complaint investigation meeting on June 11, 2019, the parties met to clarify the complainant's allegations. Amended allegations were sent to the parties on June 12, 2019. During the complaint investigation meeting, the District acknowledged non-compliance with all allegations as applied to state agency clients who have transferred into the District in the past year.

In accordance with MUSER XVI(4)(a)(1), the District proposed a solution to resolve the complaint. The District's proposal includes the District identifying each state agency client affected by the non-compliance, outlining the delay of receiving services for each affected state agency client, specifying the types and duration of specialized instruction and related services each state agency client was not provided, creating a plan to determine compensatory education for those students, and providing training for District staff regarding laws and regulations listed below.

The Department of Education accepts the District's proposal to remedy previous non-compliance and will monitor the corrective action plan, as finalized with the District on June 21, 2019. Throughout the 2019-2020 school year, the Department will look to the policies, procedures, and practices that may have caused the violations and will monitor the District's corrective action plan.

Allegations were as follows:

1. When state agency clients transfer from another public agency, the District does not provide students with disabilities services that are comparable to those describe in the students' IEPs until the District adopts the IEP from the previous SAU or develops and implements a new IEP. 34 CFR 300.323(e); MUSER IV(2)(A); MUSER IX(3)(B)(5).
2. The District does not have a continuum of alternative placements to meet the needs of students with disabilities, in particular, state agency clients who transfer into the District. 34 CFR 300.115; MUSER X(2)(B).

3. The District does not convene an IEP meeting to discuss state agency clients' anticipated needs for special education and related services when students transfer into the District. 34 CFR 300.324(b)(1)(ii)(D); MUSER IX(3)(D)(1).

4. The IEP Teams for state agency clients who transfer into the District do not determine educational needs and placement with parental participation. 34 CFR 300.501(c); MUSER X(2)(B); MUSER App. at 218.

CORRECTIVE ACTION PLAN TO BE COMPLETED BY THE DISTRICT

1. **By July 31, 2019**, the District will identify all state agency clients who enrolled in the District during the 2018-2019 school year and who did not receive educational services while enrolled. The District will propose compensatory service plans for those children to the Department. Compensatory services will be provided by December 31, 2019.

2. The Department will conduct training regarding the District's responsibilities to District personnel by **August 30, 2019**.

3. The District will develop a plan for the provision of special education and related services when timely placement is not possible. The plan will be submitted to the Department no later than **August 30, 2019**.

4. The District will conduct a review of the District's registration process for state agency clients. The review will be completed and findings reported to the Department by **February 1, 2020**. Recommendations from the District's report will be completed by May 31, 2020 and will be implemented by the start of the 2020-2021 school year.

5. The District will provide information about all state agency clients enrolled in the District during the 2019-2020 school year and the educational services provided to them by **February 1, 2020**.