

COMPLAINT INVESTIGATION REPORT
v. RSU 14
Complaint 20.062C
Complaint Investigator: Rebekah J. Smith, Esq.
April 13, 2020

INVESTIGATION PROCEDURE

Complainants:

Respondent: RSU 14
Christopher Howell, Superintendent
Lisa Garneau, Special Education Director
228 Windham Center Road
Windham, Maine 04062

Student:

The Department of Education received this complaint on February 4, 2020. A Draft Allegations Report was issued on February 7, 2020. A telephonic conference was held on February 11, 2020. The Parents submitted Exhibits #1 to #43. The School District Submitted Exhibits A to R. Both parties identified witnesses they requested be interviewed.

An Ancillary Issue was identified on March 6, 2020. The deadline for the School District to provide additional documents regarding the Ancillary Issue was extended to March 26, 2020. On March 26, 2020, the School District submitted Exhibits 3, 4, 5, 6, 7, 8, 10, 15, and 19 as well as a response to the Ancillary Issue.¹ In addition, on March 31, 2020, at the Investigator's request, the School District submitted the Written Notice from the December 9, 2019, IEP meeting, and an email from Brian Champion, National Honor Society Advisor, providing the relevant dates regarding the Student's NHS application. The Parents submitted responsive documents identified as Parent Exhibits 44, 45, 46, and 47 on April 6, 2020.

The Complaint Investigator reviewed all documents, information, and responses from the parties. Interviews with the Parents and the Student were conducted on March 6 and 9, 2020. Interviews with RSU 14 staff members were conducted on March 9 and 31, 2020. All witnesses identified by the parties were interviewed.

PRELIMINARY STATEMENT

The Student is 18 years old. _____ is currently enrolled at _____ School as a twelfth-grade student. The Student resides with _____ parents in _____, Maine.

¹ The exhibits are not consecutively numbered because they were utilized from the School District's response to an OCR complaint filed by the family and the exhibit numbers from that filing were carried over.

ALLEGATIONS

1. The School District failed to comply with a mediation agreement signed by the parties on April 11, 2019, which required that one person from the School District would act as the primary point of contact, which may be enforced through the complaint investigation procedure pursuant to MUSER XVI.3.B.8.
2. The School District failed to comply with a mediation agreement signed by the parties on April 11, 2019, which required that the student be provided accommodations for mid-term examinations, which may be enforced through the complaint investigation procedure pursuant to MUSER XVI.3.B.8.
3. The School District failed to apprise the National Honor Society decision-making committee and the student's field hockey coach of the accommodations in the student's IEP in violation of the mediation agreement provision requiring that one person from the School District would act as the primary point of contact, which may be enforced through the complaint investigation procedure pursuant to MUSER XVI.3.B.8.
4. The School District removed 11 accommodations from the student's Individualized Educational Program ("IEP") without discussion at an IEP Team meeting in violation of MUSER VI.2.I.

FACTUAL FINDINGS

A. Accommodations and Primary Point of Contact

1. On January 17, 2019, an IEP was issued for the Student that included the following accommodations:

To accommodate weaknesses in retrieval:

- Use practice tests/quizzes/study guides to provide opportunity for _____ to review skills prior to summative assessments
- Assess concepts/standards on summatives
- Provide for oral follow-up to summative assessments, prior to posting grade: rephrase, repeat and inform parents when this occurs (within 48 hours and by email) entire summative assessments will be offered orally when appropriate
- Access to notecards with formulas and/or key concepts to be used on assessments
- Use of calculator for all content areas
- Communication with _____, parents and case manager on summative assessments with grades of C (77.36 – 83.33) or lower due to _____ not understanding the concept being assessed in all classes
- Access to audiobooks when available
- When available, videos to supplement text
- Alternative versions of text offered to support understanding

To accommodate processing speed weaknesses:

- If [redacted] is likely to be unable to complete assessment within the time allotted, reduce number of items to assess standard. This includes mid-terms and finals.
- With long-term assignments, provide extended time when necessary. Email student, parent and case manager with agreed upon plan to complete work.
- Break down larger projects/assessments with clear due dates for each section
- Wait time for answering orally
- Provide teacher notes, or guided notes when appropriate to allow [redacted] the time to focus on the discussion and not the task of writing

To accommodate weaknesses in short-term working memory:

- Check in with [redacted] to ensure [redacted] understands directions by having [redacted] repeat or rephrase directions
- Administered by a familiar person
- Offer alternative setting for assessments
- Visual examples of finished product, written directions
- Ask [redacted] to repeat/paraphrase orally presented information, repeat directions as needed
- Provide frequent check-ins to ensure understanding
- Encourage [redacted] to verbally show understanding of directions
- Follow a routine that is as consistent and predictable as possible

Other:

- Allow and encourage breaks – including seeing nurse, walks, water; watch for fatigue and adjust expectations accordingly; inform parents, nurse and case manager of any health concerns
- Allow [redacted] to have [redacted] cell phone in class to communicate with parent in case of medical emergency
- When possible, [redacted] will be provided opportunities to interact with a variety of students in [redacted] daily classes (via teacher number pairing, arranged seating, rotating groups or other grouping plans) to assist [redacted] with practicing social skills with a diverse group of students
- Access to whiteboards for work
- Inform [redacted] ahead of time that follow up conversations are coming after assessments
- Establish a relationship with [redacted] by meeting with [redacted] to review [redacted] IEP at the start of each new class
- Establish a routine for assessments including follow up
- Assess to Health Plan

(School District Exhibit L.) These accommodations were listed as being applicable to classroom instruction, classroom assessments, district-wide assessments, and state assessments and as applicable at a frequency of as needed. (School District Exhibit L.)

2. On April 11, 2019, the parties reached agreement in the Parents' hearing request in the matter of 19.086H. (School District Exhibit A.) The agreement included the following provision: "[b]oth parties agree that the District will designate one person, currently the Special Education Site Coordinator for [redacted] School, as the primary point of

contact who will oversee all items and/or issues related to special education programming, to include implementation of IEP and accommodations.

agree to 'cc' the contact person designated by the district on all emails to regular education teachers or School staff." (School District Exhibit A.)

The School District felt this provision was necessary in order to streamline communication from the Parents to School District staff. (Interview with Caron.) The Parents felt this provision was necessary in order to ensure that School District staff were following the Student's IEP with fidelity. (Interview with Parents.) Before the mediation ended, the School District identified Natalie Flynn, who had started as the Special Education Site Coordinator at the high school in October 2018, as the primary point of contact. (Interview with Garneau.) The School District did not anticipate that Ms. Flynn would be able to answer all questions posed by the Parents but wanted to oversee the entirety of the communication between the Parents and School District staff. (Interview with Garneau.)

3. Even though Ms. Flynn was expected to be the primary point of contact, Lisa Garneau, Director of Special Education for the School District, would sometimes take over the District's response to the Parents if felt the Parents were being demeaning or derogatory to Ms. Flynn or other School District staff members. (Interview with Garneau.)
4. The April 11, 2019, agreement also included the following provision: " and the District have agreed to work together proactively to discuss appropriate accommodations required for any of midterm or final assessments. The primary point of contact referenced in Item #3 shall initiate such conversations at least two weeks in advance of the assessments referenced in this paragraph." (School District Exhibit A.)
5. Between April 18, 2019, and February 12, 2020, Ms. Flynn sent the Parents 18 emails, the Parents sent Ms. Flynn 12 emails, the Parents copied Ms. Flynn on 73 emails, School District staff members copied Ms. Flynn on 125 emails, and Ms. Flynn sent 128 emails to School District staff members. (School District Exhibit C; Interview with Flynn.)
6. The Parents at times did not copy Ms. Flynn on their correspondence with other School District staff members. For example, on May 23, 2019, the Parents sent multiple School District staff members an email regarding the Student's final exams, which was not copied to Ms. Flynn. (School District Exhibit D.) One of those staff members emailed Ms. Flynn to inquire if it was okay to respond directly to the Parents. (School District Exhibit D.) On May 24, 2019, Ms. Flynn reported back to the Parents that had touched base with all of the Student's teachers regarding midterm exam and explained how the Student's accommodations would be applied in each of classes. (School District Exhibit F.)
7. Prior to the start of the 2019-2020 school year, the IEP Team met to provide teachers with the Student's accommodations. (Written Notice of December 9, 2019, IEP Team Meeting.) The Parents were invited but did not attend. (Audio Recording of December

9, 2012, IEP Team Meeting.) Former teachers of the Student shared strategies for implementing the Student's accommodations. (Interview with Holmes-Perkins.)

8. On September 23, 2019, the Student's Mother emailed Darcie Finn, the Student's Case Manager, to ask her to review the Student's assessment accommodations with Science teacher, Melissa Holmes-Perkins, since the Student had taken a test and no arrangements had been made to provide an oral follow-up prior to grading. (Parents Exhibit #6.) Ms. Finn indicated that Ms. Holmes-Perkins was aware of the accommodations in the Student's IEP but she would follow up with the teacher to make sure she understood them and offer her strategies to implement the accommodations. (Parents Exhibit #6.) On September 27, 2019, the Student's Mother emailed Ms. Finn again to explain that the Student had been given another assessment in Science with no oral follow-up scheduled prior to the posting of the grade. (Parents Exhibit #7.) Ms. Finn responded that she had spoken with Ms. Holmes-Perkins and felt she understood the accommodations but she would follow up with her and would meet with Ryan Caron, Principal at _____ School, to ensure that the Student's assessment accommodations were being followed in Science. (Parents Exhibit #7.) Principal Caron maintained an open-door policy for teachers who had questions about how to effectuate the accommodations in the Student's IEP. (Interview with Caron.)
9. Ms. Finn and Ms. Flynn work together closely regarding the Student's IEP goals, services, and accommodations, including disseminating information to the Student's regular education teachers. (Interview with Flynn.) Ms. Finn is responsible for ensuring that the Student's accommodations are being followed. (Interview with Finn.) As a result of the Parents' concerns, Ms. Finn held a meeting with the Student's teachers, to which the Parents were invited, to ensure they understood and were following the accommodations. (Interview with Finn.) Ms. Finn advised the teachers that they should assume that an assessment would take the Student twice as long as other students and that if it were going to take the Student longer than the class period to complete an assessment, teachers should modify the assessment for the Student. (Interview with Finn.)
10. One area of confusion was whether oral follow-up assessments had to be completed within 48 hours of a summative assessment. (Interview with Finn; Interview with Caron.) The School District staff reviewed the IEP and concluded that although it required them to communicate the plan for follow-up assessment to the Parents within 48 hours, the oral follow-up assessment itself did not have to occur within that time frame. (Interview with Caron.) Principal Caron checked in with the Student about preferences regarding follow-up assessments, which had generally been occurring once a week during a study hall type of period that occurred only on Wednesdays; the Student indicated _____ wished to stay with the same schedule rather than come to school early or stay after school. (Interview with Caron.) Principal Caron informed the Student's teachers they should continue to schedule oral follow-up assessments for the Wednesday study hall period. (Interview with Caron.)

11. On October 18, 2019, the Student's Mother emailed Ms. Finn to express frustration that the Student's test grades were being entered into the Infinite Campus system before the Student had completed oral follow-up assessments. (Parents Exhibit #19.) The Student's Mother noted that the family had twice asked Ms. Holmes-Perkins to remove grades for which the oral follow-up had not been completed but the grades had not been removed. (Parents Exhibit #19.) On October 22, 2019, Ms. Finn responded that she had worked with Ms. Holmes-Perkins and Principal Caron and the grades had been removed and would be replaced after the Student had completed the oral follow-up. (Parents Exhibit #19.) Ms. Finn concluded that she completely understood the Parents' desire to ensure that the Student's grades reflected accurate growth with the accommodations being provided and that she would continue to work with the Student's teachers to apply the accommodations. (Parents Exhibit #19.) On October 25, 2019, the Student's Mother emailed Principal Ryan to express frustration that the first quarter was nearly over but no grades had been entered for the Student in Science, even for assessments for which had completed oral follow-up, leaving with no idea what to expect for grade in Science. (Parents Exhibit #19.) The same day, Principal Caron responded that he was meeting with several of the Student's teachers that afternoon to review the accommodations in IEP and their plans for follow-up assessments going forward. (Parents Exhibit #19.) In the same email, Principal Caron indicated that he had talked to the Student at lunchtime and reported that had received the materials to apply to the National Honor Society ("NHS"). (Parents Exhibit #19.) He also explained that he had turned off the "portal view" of the Student's grades in Science until he met with the Student's teachers, which explained why no grades were visible to the Student in that particular class. (Parents Exhibit #19.)
12. On November 26, 2019, the Student's Mother and Ms. Holmes-Perkins exchanged emails regarding the accommodations that the teacher had set up for the Student to utilize in assessments, which included checking in with the Student regularly during classroom review of the quiz material. (Parents Exhibit #24.) Although the Student's Mother asked that the Student be informed in advance what the test format was, such as whether it would be shortened, or if it included essays, Ms. Holmes-Perkins responded that she saw no requirement in the IEP that she inform the Student in advance what the format of the test would be. (Parents Exhibit #24.) She indicated, however, that she would be happy to do so if it would be helpful for the Student and that she would be willing to implement teaching strategies or accommodations that were not explicit in the IEP if they would be helpful to the Student and were feasible to the integrity of the course and her teaching schedule. (Parents Exhibit #24.)
13. On December 9, 2019, the Student's IEP Team held an annual meeting, which was the first IEP Team meeting of the school year. (School District Exhibit K; Interview with Garneau.) The proposed IEP, provided by the School District to the Student's Father and the Student at the meeting, included modifications to the language regarding the Student's accommodations in Section 6 of the IEP. (School District Exhibit O.)
14. Within the accommodations to address weaknesses in retrieval, the following accommodation was removed: "Assess concepts/standards in summatives and

communicate with the Student, Parents, and Case Manager on summative assessments with grade of C or lower due to Student not understanding the concept being assessed in all cases.” (School District Exhibit O.) One accommodation to address weaknesses in retrieval was abbreviated from “Provide for oral follow-up with summative assessments, prior to posting grade: rephrase, repeat and inform parents when this occurs (within 48 hours and by email), entire summative assessments will be offered orally when appropriate” to “Provide for oral follow-up to summative assessments.” (School District Exhibit O.)

15. Within the accommodations to address weaknesses in short-term working memory, the following accommodations were modified: “If _____ is likely to be unable to complete assessment within the time allotted, reduce number of items to assess standards. This includes mid-terms and finals,” became “Modify length of assessments as needed.” (School District Exhibit O.)

16. Within the accommodations to address weaknesses in short-term working memory, the following accommodations were removed: “Administered by a familiar person,” “Offer alternative setting for assessments,” “Ask _____ to repeat/paraphrase orally presented information, repeat directions as needed,” and “Encourage _____ to verbally show understanding of directions.” (School District Exhibit O.)

17. Within the “other” category of accommodations, the following were removed:

- Allow and encourage water breaks, including seeking the nurse, going to walks, and getting water; watching for fatigue and adjusting accordingly; informing Parents, Nurse, and Case Manager of any health concerns.
- Allow _____ to have _____ cell phone in class to communicate with a Parent in case of a medical emergency.
- When possible, _____ will be provided opportunities for the Student to interact with a variety of students in _____ daily classes to assist _____ in practicing social skills with a diverse group of students.
- Inform _____ ahead of time that follow up conversations are coming after assessments.
- Establish a relationship with _____ by meeting with _____ to review _____ IEP at the start of each new class.
- Establish a routine for assessments including follow up.

(School District Exhibit O.)

18. All of these accommodations were checked as applicable to classroom instruction, classroom assessments, district-wide assessments, and state assessments. (School District Exhibit O.) They were indicated as being necessary in the regular education classroom with a frequency “as needed.” (School District Exhibit O.)

19. During the IEP Team meeting, School District staff explained that the accommodations had been altered to ensure alignment with Department of Education guidance to focus on

the Student's disabilities, weaknesses, and strengths. (Interview with Garneau; Audio Recording of December 9, 2019, IEP Team Meeting.) It was explained that the categories remained the same as the Student's prior IEP but the language had been modified. (Audio Recording of December 9, 2019, IEP Team Meeting.) The Team reviewed the proposed accommodations language silently themselves. (Audio Recording of December 9, 2019, IEP Team Meeting.) The Student's Father and the Student did not indicate any concerns about the changes to the accommodations. (Written Notice of December 9, 2019, IEP Team Meeting; Audio Recording of December 9, 2019, IEP Team Meeting.) The entirety of the discussion lasted less than two minutes. (Audio Recording of December 9, 2019, IEP Team Meeting.) Near the end of the meeting, it was noted that the Team had moved through the draft IEP quickly and the Student and the Student's Father were asked if they had any concerns or if they felt anything was missing from the IEP, which they did not. (Audio Recording of December 9, 2019, IEP Team Meeting.)

20. The School District intended for the alterations to improve the clarity of the accommodations language but not to substantively alter them. (Interview with Garneau; Interview with Finn.)
21. At the meeting, the Student's Father expressed concern about Ms. Holmes-Perkins's follow through with regard to the Student's accommodations. (Written Notice of December 9, 2019, IEP Team Meeting; Audio Recording of December 9, 2019, IEP Team Meeting.) Ms. Finn reported that she had been working with the Student's teachers weekly if not daily to ensure that accommodations were being applied; she had communicated with Ms. Perkins-Holmes many times to provide additional guidance, clarification, and support. (Written Notice of December 9, 2019, IEP Team Meeting; Audio Recording of December 9, 2019, IEP Team Meeting.) Principal Caron was also working with Ms. Holmes-Perkins regarding the application of the accommodations in the Student's IEP. (Written Notice of December 9, 2019, IEP Team Meeting; Audio Recording of December 9, 2019, IEP Team Meeting.) In response to the Student's Father's inquiry, Ms. Finn reported that she would have a plan for the Student's mid-term accommodations completed by December 20, 2019. (Written Notice of December 9, 2019, IEP Team Meeting; Audio Recording of December 9, 2019, IEP Team Meeting.)
22. With regard to the altered accommodations language in her interview, Ms. Finn indicated that the Student was routinely offered alternative settings for standardized testing but had never utilized such options and she had the impression that the Student's Parents were opposed to relocating for such tests. (Interview with Finn.) With regard to the accommodation regarding access to cell phone, Ms. Finn reported that the School District uses a practice of allowing students to have their cell phones in class and encouraging water breaks, so the District felt it was not necessary to include them as specific accommodations in the Student's IEP. (Interview with Finn.) The social skills accommodation was removed because the Student did not have any social skills goals in IEP and School District staff had determined that the accommodation was not directly related to the Student's disability. (Interview with Finn.) The accommodation of "establishing a relationship" with the Student was removed because the Student was a

senior. (Interview with Finn.) The accommodation requiring School District staff to inform the Student in advance that follow up assessments would be scheduled was revised to “email Student, Parent, and Case Manager with agreed upon plan to complete work” as more reflective of the actual practice, particularly given that the Student was a senior and was accustomed to the oral follow-up assessment process. (Interview with Finn.) In addition to more carefully matching the accommodations in the IEP to be responsive to the Student’s disability, the intention of the IEP Team was to draft an IEP that would carry the Student into first semester at college and to ensure that the “as needed” language would be liberally applied to individual assignments and projects. (Interview with Garneau.)

23. Prior to mid-terms, Ms. Finn reached out to the Student’s teachers to determine whether and how they were modifying their mid-term examinations for the Student. (Interview with Finn.) In mid-December 2019, Ms. Finn created a spreadsheet of accommodations that would be provided to the Student for the mid-term exams scheduled for January 21 to 24, 2020. (School District Exhibit I.) Principal Caron shared it with the Student on December 18, 2019, and asked the Student to share the spreadsheet with Parents and ask them to contact him with any questions. (School District Exhibit J.) Ms. Finn reviewed the plan with the Student a second time. (School District Exhibit J.) Principal Caron revisited the plan with the Student on December 20, 2019, at which time the Student indicated that felt the plan was good. (School District Exhibit J.) The same day, Principal Caron contacted the Student’s Father, who indicated that the Parents had reviewed the plan and felt it was good. (School District Exhibit J.) Principal Caron let the Student’s Father know that Ms. Finn would check with the Student after the holiday break to review the plan once more. (School District Exhibit J.)
24. On January 6, 2020, the School District issued the Student’s IEP for the period December 10, 2019, to June 7, 2020. (School District Exhibit K.) The IEP contained the same changes to the accommodations language in Section 6 that had been included in the draft IEP provided to the Student’s Father at the December 19, 2019, IEP Team meeting. (School District Exhibit K.)
25. On January 9 and 15, 2020, the Parents sent emails to Lisa Garneau, Director of Student Services, indicating concern about the changes to the accommodations identified in Section 6 of the IEP. (School District Exhibit P; Parents Exhibits #36 & #37.) In particular, the Parents indicated they were concerned that much of the language regarding accommodations from the prior IEP had been left out and that the significant changes resulting had not been discussed at the IEP Team meeting. (Parents Exhibit #36.) The Parents expressed concern, for example, that the language regarding “48 hours” had been removed as well as language indicating that the oral follow-up had to happen prior to grading. (Parents Exhibit #36.)
26. The Student took mid-term examinations on January 21, 22, 23, and 24, 2020. (School District Exhibit I.)

27. On January 21, 2020, Ms. Garneau responded to the Parents' January 9 and 15 emails expressing concern about the mid-term accommodations. (School District Exhibit P.) Ms. Garneau responded that all of the proposed changes to the accommodations language had been included in the draft IEP provided to the Student's Father at the meeting and had been reviewed by the Team, which determined they were appropriate. (School District Exhibit P.) Ms. Garneau explained that during a recent audit of the School District's special education records, it came to the District's attention that parent communications should not be included in the accommodations section since such a provision is not within the definition of "accommodation" in Maine regulations: "changes in the manner in which instruction and assessment is delivered that does not alter the curriculum level expectation being measured or taught." (School District Exhibit P.) Ms. Garneau offered to change the language in several areas of the Student's IEP unrelated to accommodations and suggested that the IEP Team be reconvened if the Parents wanted to review the accommodations language. (School District Exhibit P.) The Parents did not wish to convene another IEP Team meeting. (School District Exhibit P.)
28. The Student took Science mid-term on January 22, 2020, but did not do as well as normally did on Science examinations. (Interview with Holmes-Perkins.) had difficulty with labelling portion of the exam and on short-answer questions regarding articles that had been assigned. (Interview with Holmes-Perkins.) On January 22, 2020, the Student emailed Ms. Holmes-Perkins to ask when they could meet to do oral follow-up for a test taken before the holiday break and for the mid-term. (Parents Exhibit #26.) Ms. Holmes-Perkins responded the same day with some options, including anytime between 11:00 and 2:00 each of the next two days. (Parents Exhibit #26.) Although the Student did not respond, stopped by Ms. Holmes-Perkins's room during lunchtime on Friday, January 24; Ms. Holmes-Perkins was already in a meeting. (Parents Exhibit #27.) The two made an appointment to meet the following week, during Pride Block on Wednesday, which was the Student's preferred time to do oral follow-up assessments. (Parents Exhibit #27.) On January 24, Ms. Holmes-Perkins let the Parents know by email that 'd be conducting the follow-up assessment the following Wednesday. (Parents Exhibit #27.)
29. On January 24, 2020, the Parents communicated with multiple School District staff regarding the Student's accommodations for mid-term examinations, specifically Math and Science. (Parents Exhibit #15.) Principal Ryan responded that there was no mid-term assessment in Math and that the Student had spoken to Ms. Holmes-Perkins and he believed there was a plan in place for the Student's oral follow-up to occur in Science before grades closed. (Parents Exhibit #15.)
30. On January 26, 2020, after reviewing the recording of the meeting, the Parents responded to Ms. Garneau's email. (School District Exhibit Q.) The Parents reiterated their perception that 11 accommodations had been removed entirely from the Student's IEP and there were two additional accommodations that had been significantly altered. (School District Exhibit Q.) The Parents expressed concern that, having not been given a draft of the IEP in advance, they were unable to catch all the changes during the few minutes when the Team reviewed the proposed accommodations for the Student's new

IEP. (School District Exhibit Q.) The Parents requested that the removed accommodations be put back into the Student's IEP and that altered accommodations be restored to their prior level of detail. (School District Exhibit Q.)

31. On January 29, 2020, Ms. Holmes-Perkins emailed the Student regarding follow up to mid-term. (Parents Exhibit #28.) She noted that the Student had left blank several short-answer questions regarding information from articles they had read and provided follow-up questions for the Student to answer after reviewing the articles at own pace. (Parents Exhibit #28.) The Student turned in answers to the short answer questions after taking them home to redo, but still left one of the questions blank. (Interview with Holmes-Perkins.)
32. The Student also completed an oral follow-up assessment with Ms. Holmes-Perkins on the Science mid-term. (Interview with Holmes-Perkins.) final grade on the assessment after the follow-up and turning in the questions did at home about the articles was a 77. (Interview with Holmes-Perkins.)
33. On Friday, January 24, 2020, Kevin Roy, the Student's English Language Arts teacher, emailed the Student to let know they should meet to follow up on the Student's project. (Parents Exhibit #3.) The Student and Mr. Roy exchanged messages although the Student did not respond to Mr. Roy's final message suggesting times on the following Tuesday. (Parents Exhibit #3.) On Monday, January 27, Mr. Roy again emailed the Student to schedule a follow-up assessment and provided with questions to consider for the follow-up. (Parents Exhibit #3.) The Student responded and the two agreed to meet on Wednesday, January 29, after school. (Parents Exhibit #3.) Although the Student stopped by Mr. Roy's classroom after school on January 29, the two missed each other somehow; Mr. Roy again emailed the student to ask when could meet the following day, January 30, because he needed to post the grades by January 31. (Parents Exhibit #3.) The Student did not respond so Mr. Roy emailed the Student mid-morning on Thursday, January 30, to ask if could eat lunch in his room to do the follow-up for final project; he also offered to meet with after school even though it would interfere with his coaching commitment, explaining that he felt strongly that completing the oral follow-up was critical to success on the final. (Parents Exhibit #3.) He reiterated that grades needed to be posted by 8:00 a.m. on Friday, January 31. (Parents Exhibit #3.) The Parents emailed Mr. Roy that the Student was out sick on Thursday, January 30. (Parents Exhibit #3.) Principal Caron indicated that the Student's grade could be incomplete for the quarter and semester given absence on January 30 but that the incomplete should be addressed soon in order to have the Student's seventh semester report/transcript ready to send to the college was attending if it were requested. (Parents Exhibit #3.) The Student's Mother responded that the result was not fair to the Student or to Mr. Roy and expressed hope that the Student would be well enough to return to school on Friday, January 31, to get the oral follow-up completed. (Parents Exhibit #3.) The Student was not in school on January 31. (Parents Exhibit #3.) On February 3, Ms. Finn emailed the Student, the Student's Parents, and Mr. Roy to express concern that there remained no plan for the Student to do follow-up, which was important to transcript, to resolve the incomplete, and for working memory.

(Parents Exhibit #3.) She explained the periods that Mr. Roy could be available to conduct the oral follow-up, and noted that he would also make himself available before school and after school. (Parents Exhibit #3.)

34. On February 3, 2020, the Student's Mother asked Ms. Holmes-Perkins for a copy of the Student's mid-term assessment. (Parents Exhibit #25.) The Student's Mother questioned whether the test had required too much recall of the Student all at once or if did not know the material, noting that the Student was going to be doing a lot of similar testing in college since had been accepted into a medical biology program. (Parents Exhibit #25.) The Student's actual test has been misplaced so Ms. Holmes-Perkins was not able to provide a copy to the Students' Parents. (Interview with Holmes-Perkins.)
35. Ms. Holmes-Perkins had been informed that an hour-and-a-half might be too long for the Student to remain focused on an assessment, so she adjusted mid-term examination for all students to take approximately an hour. (Interview with Holmes-Perkins.) Throughout the school year, Ms. Holmes-Perkins has utilized an hour expectation for summative assessments and has not created individual assessments for the Student. (Interview with Holmes-Perkins.) Ms. Holmes-Perkins believed that the Parents preferred that the Student take the same assessments as the other students in the class. (Interview with Holmes-Perkins.) Ms. Holmes-Perkins encouraged the Student several times to use a notecard for summative assessments and assisted with understanding what to write on notecard. (Interview with Holmes-Perkins.) The mid-term examination was the first time that the Student utilized a notecard for a summative assessment in Science. (Interview with Holmes-Perkins.) Ms. Holmes-Perkins also checks in with the Student more frequently than she does with other students to ensure that understands the class material. (Interview with Holmes-Perkins.) The Student is eager to participate in the class. (Interview with Holmes-Perkins.)
36. The Student has generally performed very well in Science class, obtaining all As and Bs except for mid-term grade. (Interview with Holmes-Perkins.) She has given the Student an oral follow-up assessment on each of the five to eight assessments she has given in Science class this year. (Interview with Holmes-Perkins.) Each time, the Student's grade on the summative assessment went up after completed the oral follow-up assessment. (Interview with Holmes-Perkins.) Ms. Holmes-Perkins has at times had difficulty getting the Student in for the oral follow-up assessment since the times when the Student can come to her classroom are limited; it often ends up being several days later when the oral follow-up assessment occurs. (Interview with Holmes-Perkins.)
37. On February 5, 2020, Ms. Finn emailed the Student again about scheduling the oral follow-up assessment with Mr. Roy. (Parents Exhibit #4.) A snow day and holiday followed. (Parents Exhibit #4.) The Student completed the oral follow-up with Mr. Roy on February 12. (Parents Exhibit #30.)
38. On February 14, 2020, Mr. Roy emailed the Student to express concern that performance on the final class project, including the oral follow-up, was not reflective of

prior assignments in the course. (Parents Exhibit #30.) He proposed a meeting with the Student, Parents, and Principal Caron to go over the project and oral follow-up and form a plan to reflect an accurate grade for the assignment. (Parents Exhibit #30.) On February 24, 2020, the Student's Mother suggested that the Student's grade be left as a B because it was extremely hard for the Student to return to materials weeks after taking an assessment. (School District Exhibit M.) The Parents indicated to Mr. Roy that they had asked for the Student's mid-term and final grades for the class to be removed through the complaint investigation process. (School District Exhibit M.)

39. On March 2, 2020, the Student was awarded first place in the 2020 Inclusion Awards Essay Contest of the Maine Development Disabilities Council. (Parents Exhibit #42.) In essay, the Student wrote about the impact of disabilities and impression that although it was frustrating to have a processing disorder, the most frustrating part of education had been getting through the special education process. (Parents Exhibit #42.) The Student stated that did not feel that had been fully included. (Parents Exhibit #42.) expressed a belief that although School District staff members were kind to , they did not understand their obligations regarding education and did not follow IEP many times. (Parents Exhibit #42.)
40. The Student has the impression that teachers do not talk to directly and that they act as if they are afraid of . (Interview with Student.) stated that feels has to initiate setting up oral follow-up assessments, particularly in Science class. (Interview with Student.) The Student indicated that largest concern was the failure of teachers to apply the accommodations in IEP. (Interview with Student.)
41. With regard to accommodations for extra-curricular activities, during her interview Ms. Garneau stated that a student's particular needs for support to participate in extra-curricular activities may be discussed at a student's IEP Team meeting. (Interview with Garneau.) The School District has provided supports, in the form of personnel, to allow students with disabilities to participate in school plays and sports activities. (Interview with Garneau.) She stated that she typically asks during IEP Team meetings if accommodations are needed for any extra-curricular activities. (Interview with Garneau.) The Student never had accommodations, including with regard to communication, for extra-curricular activities in IEP. (Interview with Garneau.) Furthermore, the Student has never had accommodations related to formative assessments, such as written essays or reports, but only with regard to summative assessments. (Interview with Garneau.) The Student is provided the opportunity for oral follow-up on summative assessments because it is difficult for to hold large amounts of information and oral follow-ups allow teachers to direct questions to the areas that the Student had difficulty with on the written assessment to more accurately assess understanding of the content being tested. (Interview with Garneau.)

B. Field Hockey Communication

42. Cory DiDonato, the varsity field hockey coach, has been coaching the Student in field hockey for four years. (Interview with DiDonato.) Ms. DiDonato is a teacher at the

middle school in the School District. (Interview with DiDonato.) The Student participated on the junior varsity field hockey team for all four years of high school. (Interview with DiDonato.) Ms. DiDonato communicates with the players and parents through the “Remind” app throughout the season until the end of season awards event. (Interview with DiDonato.) Ms. DiDonato sends each player and/or parent a message at the start of the summer through the app and asks them to confirm that they received it. (Interview with DiDonato.) Ms. DiDonato had no reason to believe that the Student was not getting messages through the Remind app during the season. (Interview with DiDonato.) Much of the information provided through the app was conveyed at practices as well. (Interview with DiDonato.) The Student never appeared without the right uniform or at the wrong time during the season. (Interview with DiDonato.) Ms. DiDonato also communicated with the Student’s Mother via email throughout the season. (Interview with DiDonato.)

43. Ms. DiDonato has used the Remind app for at least three years to communicate with students, so the Student was familiar with it. (Interview with DiDonato.) At the time of interview, Ms. DiDonato could confirm that the Student was no longer registered with the team on the Remind app, but could not tell when the Student had removed ; often seniors remove themselves after the season ends. (Interview with DiDonato.) She could confirm, however, that the Student’s Father remained subscribed to the Remind app. (Interview with DiDonato.)

44. Although the awards event had taken place at the high school in the past, for the past two years, each coach has had discretion to organize their own awards event. (Interview with DiDonato.) This year, Ms. DiDonato chose to hold the event at a restaurant in Windham. (Interview with DiDonato.) The Student did not attend. (Interview with DiDonato.)

45. Ms. DiDonato believed that the Student had a good field hockey season and was well connected to the team. (Interview with DiDonato.) Ms. DiDonato had not received any complaints from the family about the Student’s participation in field hockey until after the season ended this year. (Interview with DiDonato.) The Student’s physical health limitations were accommodated by limiting participation in hot settings and not penalizing for not attending practices, among other methods. (Interview with DiDonato.) Although Ms. DiDonato was aware of the Student’s processing disorder, she had not received a copy of the Student’s IEP or been instructed to apply any particular accommodations to the Student’s participation in field hockey. (Interview with DiDonato.) Ms. DiDonato observed that the Student sometimes had difficulty relaying information to parents, which is why she included the Student’s Father on the Remind app and corresponded with the Student’s Mother through email; although many parents were included on the Remind app, it was unusual for her to communicate with a parent via email. (Interview with DiDonato.) She also double checked with the Student routinely to ensure that the Student understood directions, since she found that the Student was hesitant to ask questions. (Interview with DiDonato.) She found that the Student’s teammates were very understanding and caring and supported the Student to make sure understood what was going on. (Interview with DiDonato.)

46. On November 5, 2019, the Student's Mother emailed Principal Ryan to express concern about the Student's assessment in field hockey and placement on the junior varsity team, noting that the Student was not planning to attend the awards ceremony that week because was upset about placement on the junior varsity team. (Parents Exhibit #21.) On November 7, 2019, Principal Caron responded that he was sorry that the Student was not planning to attend the ceremony and he reviewed the various plans in place for the District's Athletic Director to review the assessment and selection processes on all teams to ensure they were appropriate for all students. (Parents Exhibit #21.) It was not until the season was over that the Parents expressed concern about how the varsity selection process was conducted. (Interview with Garneau.)
47. In interview, the Student indicated that thought had been added to the field hockey messaging system during the season but that did not receive the message about the final banquet. (Interview with Student.)
48. Ms. Flynn does not, as a general practice, share students' IEPs with coaches and in this case, she did not share the Student's IEP with the field hockey coach. (Interview with Flynn.) Ms. Flynn confirmed with the school nurse that the Student's Mother would provide the Student's health plan to the field hockey coaches. (Interview with Flynn.) The Student's mother preferred to be the one communicating the health plan and the Student's physical health limitations to the field hockey coach. (Interview with Flynn.) If the Student's mother had not provided the health plan, Ms. Flynn would have. (Interview with Flynn.) Ms. Flynn explained that was the one aspect of the Student's involvement in extra-curricular activities that called for her involvement in the IEP. (Interview with Flynn.) Ms. Flynn did not recall the family at any time requesting other accommodations related to extra-curricular activities. (Interview with Flynn.)

C. National Honor Society Application Process

49. In August 2019, the Parents requested that the Student be granted a waiver to apply for the National Honor Society ("NHS") that fall even though GPA fell below the minimum required GPA of 90. (Interview with Caron.) The Parents maintained that some classes where had been given a "Pass" instead of a numeric grade had brought down the Student's GPA. (Interview with Caron.) Principal Caron granted the Parents' waiver request after consulting with Mr. Garneau and the District's Superintendent. (Interview with Caron.) Principal Caron is not aware of any other student who has ever been invited to apply when their GPA fell below the threshold. (Interview with Caron.) The Student would not have received an invitation to apply without this accommodation. (Interview with Caron.) Principal Caron did not receive any further requests from the Parents regarding the Student's application to NHS. (Interview with Caron.)
50. When the NHS applications became available the week of October 21, 2019, Principal Caron asked the NHS advisor, a faculty member, to hand deliver the Student's invitation to apply rather than place it in the mailbox of homeroom teacher to be delivered by the teacher, which was the process used for all other students. (Interview with Caron; March 31, 2020, Email from Champion.) Principal Caron confirmed with the Student

that had received the application. (Interview with Caron.) The Student did not indicate that was having difficulty with the substance of the application or needed additional time to complete it. (Interview with Caron.)

51. On October 30, 2019, the NHS Advisor received a letter of recommendation for the Student from Ali Peters. (March 31, 2020, Email from Champion.) On October 31, 2019, the Parents emailed the NHS Advisor to ask where guidelines for essays could be located since the Student had a processing disorder had required written directions to ensure submission met the requirements. (Parent Exhibit #45.) NHS applications were due on November 4, 2019. (March 31, 2020, Email from Champion.) Although Principal Caron was not involved in the selection process, members of the selection committee were familiar with the Student. (Interview with Caron.) By letter dated November 14, 2020, the Student was advised that had not been selected for NHS. (Parents Exhibit #46.)
52. The Student was very upset about not being accepted into National Honor Society. (Interview with Students' Parents.) The Student had difficulty going to school for a couple of days after received the letter rejecting application. (Interview with Students' Parents.) The family believes that the Student's inability to list National Honor Society membership on scholarship applications has negatively impacted success in obtaining scholarships for college. (Interview with Students' Parents.)
53. On November 22, 2019, the Student's Mother emailed Principal Caron to appeal the denial of the Student's application for NHS membership. (Parents Exhibit #22.) She noted the short timeline between the opportunity to pick up the application packet and the date it was due. (Parents Exhibit #22.) She explained that the Student required extra time to work through the nomination process and as a result of the short timeline had only obtained one recommendation, rather than the maximum number of two that would have been allowed. (Parents Exhibit #22.) The Student's Mother reported that it took the Student 15 hours to complete the required essay, noting that was not asked by any School District staff whether required assistance. (Parents Exhibit #22.) The Student's Mother opined that the NHS Advisor should have provided the Student with accommodations, including the opportunity for an oral follow-up. (Parents Exhibit #22.) The Student's Mother stated that the Parents had shared at the prior IEP meeting that the Student would be applying for NHS and expressed her belief that special education staff should have intervened to ensure that the Student had the appropriate supports. (Parents Exhibit #22.) She expressed frustration that the NHS Advisor had responded to their inquiry about denial by stating that the student was denied because the selection committee did not have enough information about leadership qualities. (Parents Exhibit #22.)
54. The Student believes that the true reason was not accepted into the National Honor Society was GPA, which was lower than other applicants. (Interview with Student.)
55. Principal Caron conducted a review of the NHS process and found that the information on the website was outdated and reflected a prior policy of allowing all faculty members

to provide input on applications. (Interview with Caron.) Even though the NHS Constitution had been amended to remove this part of the process, the input of all faculty members was allowed since the Parents had reviewed the NHS website and understood that to be part of the process. (Interview with Caron.) Faculty were invited to provide input on all students who applied. (Interview with Caron.) The selection committee met to review the input and did not change their decision with regard to any applicant, including the Student. (Interview with Caron.)

56. Although the Student scored well in the category of service, scored lower than other students in the leadership category. (Interview with Caron.) essays were clear and the selection committee did not have difficulty understanding them. (Interview with Caron.)
57. Although the Student was invited to reapply to National Honor Society in the spring, the Parents were skeptical that would be accepted if reapplied since the National Honor Society information indicates that seniors may not apply in the spring before their graduation. (Interview with Students' Parents.)
58. Principal Caron did not expect Ms. Flynn to communicate with the NHS advisor about the Student's application or to be responsible for applying the accommodations in the IEP to the NHS process. (Interview with Caron.) Ms. Flynn noted that she had no involvement in the Student's National Honor Society application until she was copied on the Student's Mother's appeal email. (Interview with Flynn.)

DETERMINATIONS

1. The School District did not fail to comply with a mediation agreement signed by the parties on April 11, 2019, which required that one person from the School District would act as the primary point of contact. As such, no violation occurred.

The primary point of contact provision was adopted in the mediated agreement of April 11, 2019, requiring the Special Education Site Coordinator to oversee all items and/or issues related to the Student's special education programming, to include implementation of the IEP and accommodations. The agreement also required the Parents to copy Natalie Flynn, the Special Education Site Coordinator, on all emails to School District staff.

Between April 18, 2019, and February 12, 2020, the Parents sent Ms. Flynn a total of 12 direct emails, although she was copied by the Parent on 73 emails and by School District staff members on 125 emails. Ms. Flynn emailed the Parents directly 18 times. Of the emails on which Ms. Flynn was only copied, other School District staff members were more appropriate to provide the information that the Parents were seeking. Sometimes when the Parents emailed School District staff and did not copy Ms. Flynn, the staff member would look to Ms. Flynn for guidance as to whether it was acceptable to respond directly to the Parents, which Ms. Flynn approved. Moreover, Ms. Garneau, as

the Special Education Director, sometimes took over the communication from Ms. Flynn when she felt it was necessary.

Further, Ms. Flynn satisfied the requirement of the mediated agreement that she oversaw all items and issues related to the Student's special education programming, to include implementation of IEP and accommodations. Although Ms. Finn took the lead on planning accommodations for mid-terms in December 2019, Ms. Flynn was included in the related correspondence. Aside from the allegations regarding Ms. Flynn's failure to execute her role with regard to National Honor Society and field hockey, discussed below, it is unclear what particular actions the Parents believe Ms. Flynn should have performed but did not.

2. The School District did not fail to comply with a mediation agreement signed by the parties on April 11, 2019, which required that the parties work together to discuss appropriate accommodations for the Student's mid-terms and final assessments. As such, no violation occurred.

The April 11, 2019, mediation agreement required the Parents and the School District to work together proactively to discuss appropriate accommodations required for any of the Student's mid-term or final assessments. The agreement called for Ms. Flynn to initiate conversations about the accommodations for assessments at least two weeks prior to the examinations. The Student's prior IEP called for oral summative assessments to be conducted prior to the posting of grades and for the parents to be informed within 48 hours and by email.

On May 24, 2019, even though the Parents had emailed one of the Student's teachers directly, Ms. Flynn emailed the Parents information regarding the final examination plan for each of the Student's classes and the manner in which accommodations would be provided. The Parents remained understandably frustrated by the inconsistencies in the application of accommodations in Science, including the posting of grades prior to oral follow-ups and lack of concrete planning regarding follow-up. The Student's Father raised concerns at the December 9, 2019, IEP Team meeting. During the meeting, Ms. Finn committed to providing a plan for mid-term accommodations by December 20, 2019, a month in advance of the examinations. Before December 20, 2019, the Student and the parents were provided information about the mid-term examination process in each of the Student's classes, including the manner in which accommodations would be provided. Principal Caron shared the plan with the Student on December 18, 2019, and asked to share it with parents and have them contact him with any questions. Ms. Finn then went over the plan with the Student a second time. The Student confirmed to Principal Caron that was comfortable with the plan on December 20, 2019, when he sought input; the Student's Father confirmed the same when Principal Caron contacted him the same day.

The Parents raise allegations in this complaint primarily about the application of the accommodations in the Student's English Language Arts and Science classes for most recent examinations, mid-terms, in January 2020. The Student turned in English

Language Arts mid-term, which consisted of a gallery walk project, on January 23, 2020. Although Mr. Roy made repeated attempts to schedule the Student's oral follow-up assessment with [redacted], beginning on January 24, the follow-up did not occur until February 12. In one instance, the Student visited Mr. Roy's class but the two missed each other; on the day before grades were due, the Student was absent. The Student's final grade, after the oral follow-up occurred, was a B. Although two days after the oral follow-up assessment occurred, on February 14, Mr. Roy offered another opportunity for the Student to improve [redacted] grade through additional follow-up, the Parents ultimately declined Mr. Roy's suggestion, feeling that too much time had passed.

At the time of their interview, the Parents indicated that they remained unclear as to whether the Student's science mid-term examination was modified from the examination provided to other students. They also expressed frustration that the Student's Science mid-term examination had been misplaced, which they believed made it challenging for Ms. Holmes-Perkins to provide an appropriate oral follow-up assessment to the questions that the Student struggled with on the exam. The Parents are particularly focused on understanding the Student's difficulty on this written examination because the Student is planning to study medical biology in college.

The Student took [redacted] Science mid-term on January 22, 2020. The Student reached out to Ms. Holmes-Perkins the same day to ask when the oral follow-up assessment could occur and Ms. Holmes-Perkins responded on the same day with some options. Although the accommodations plan for mid-terms indicated that the Student would complete the oral follow-up assessment on the same day as the examination, January 22, this did not occur. The Student did not respond by email, but instead stopped by Ms. Holmes-Perkins's classroom, although unfortunately Ms. Holmes-Perkins was not available at that time.² The Student and Ms. Holmes-Perkins made an appointment for the following week. Ms. Holmes-Perkins administered an oral follow-up assessment, based on her recollection of the Student's written examination, to the Student on January 29, 2020. The Student was also afforded the opportunity to answer some of the questions at home after reviewing the particular articles.

As such, the School District did not violate the terms of the mediated agreement because the School District worked proactively to discuss appropriate accommodations in a process that began more than a month prior to the Student's first mid-term examination. Furthermore, in the two classes at issue, both teachers were in communication with the Student on the day of or the day after the mid-term examination to establish times for to complete the oral follow-up assessment. In each class, the Student ultimately took oral follow-up assessments, which were factored into [redacted] grades to improve them in each class.

² School District Exhibit I indicates that the Student took [redacted] oral follow-up assessment in Science on January 22, 2020, which is inconsistent with other evidence and interviews. It is unclear what date this version of the accommodations plan was created but it appears have been modified after the mid-terms had occurred, as oral follow-up assessments were under way.

With regard to both English Language Arts and Science, some of the delay in the application of the oral follow-up assessment was due to the Student's failure to respond to emails from teachers. Once the mid-terms week had passed, the follow-up in Science was scheduled for the study hall period on Wednesday, which the Student had indicated to Principal Caron was preferred time for follow-up assessments rather than after or before school. Furthermore, although Principal Ryan offered to waive the Student's Science credit, the Parents do not want him to do that; instead, they want the Student to learn what others are learning, as facilitated by the accommodations identified in IEP.

As required by the mediation agreement, Ms. Finn began the process of communicating with the Student's teachers before the mid-term examinations to determine what the examination would consist of and whether accommodations would be needed. It is unclear why the School District staff member responsible for communication the mid-term plan shifted from Ms. Flynn to Ms. Finn and Principal Caron; nevertheless, the plan was provided to the Student and Parents and Ms. Flynn was copied on related email communications. Although the oral follow-up assessment in Science did not occur on January 22 as indicated in the plan, some of the delay in executing the follow-up was due to the Student's failure to respond to the teacher's inquiries about follow-up times. Ideally, the timing of the oral follow-up assessments would have gone exactly as indicated the plan; nevertheless, the substance of the plan, including how mid-term examinations were being conducted and the plan for how accommodations would occur, was followed.

In conclusion, the School District did not violate the mediation agreement requiring that the School District and the Parents work together proactively to discuss appropriate accommodations for any of the Student's mid-term assignments.

3. The School District did not fail to comply with a mediation agreement signed by the parties on April 11, 2019, which required that one person from the School District would act as the primary point of contact by failing to apprise the National Honor Society decision-making committee and the student's field hockey coach of accommodations in the student's IEP. As such, no violation occurred.

The Parents expressed concern that the Student was not included on the field hockey team's Remind app, used for communication throughout the field hockey season. They also expressed concern that the Student was unaware of the end of season field hockey banquet because was not included on the app.

The Remind app had been in use for three years of the Student's participation in field hockey. In the past, the Student and Father had been logged into the app. In addition, Coach DiDonato regularly communicated with the Student's Mother by email, which was not generally her practice with other parents. Coach DiDonato traditionally started the summer with a message to all players asking them to confirm that they were signed in on the app. Although the Student was no longer registered in the app when Coach DiDonato checked at the time of her interview, it is unclear when removed

; it could have been after the season, as some seniors do. The Student's Father remained registered on the app. Furthermore, the Student never appeared to be unaware of information, which was usually reiterated during practices. Although the Parents expressed concern that the Student was unaware of details related to games and practices, for example which color socks to wear to a game, Coach DiDonato reported that the same color socks were worn for all games other than a breast cancer awareness game in October, which was the same every year. Coach DiDonato did not observe the Student at any time to not have what needed due to failure to receive a communication. Finally, the Student's Mother informed School District staff, in an email of November 5, 2019, that the Student was not planning to attend the banquet later that week because was upset about having been placed on junior varsity instead of varsity.

With regard to whether Ms. Flynn should have informed Coach DiDonato and the other coaching staff about the Student's IEP and accommodations, the Student's Mother chose to take the lead on informing Coach DiDonato about the Student's health plan. At no time did the Student or Parents request that special education staff also inform the field hockey coaching staff that the Student had a processing disorder which required accommodation nor did the Student's Mother indicate to Coach DiDonato that the Student required accommodations in communication. The Student was accommodated throughout the season with regard to physical health conditions and the limitations in placed upon For example, if were not able to practice due to high temperatures, doctor's appointments, or physical issues, was not penalized. Coach DiDonato also sought to ensure during practices that the Student understood directions and information. Furthermore, Coach DiDonato reported that the Student seemed to have a good season, that was very engaged, and that the other students were very supportive of

The Parents also raise the allegation that Ms. Flynn, in her role as the primary point of contact, should have facilitated the Student's National Honor Society application process and ensured that the National Honor Society selection committee applied the accommodations in the Student's IEP. The Parents suggest that Ms. Flynn should have explained the application instructions to the Student, the Student should have been afforded the opportunity to take an oral follow-up assessment, and should have been granted additional time to complete the application and obtain recommendations. Although the Parents assert that Ms. Flynn was aware in advance of the Student's intention to apply for National Honor Society, Ms. Flynn states that she was not aware of the Student's desire to apply for National Honor Society membership. Regardless of whether Ms. Flynn was aware of the Student's intention to apply, there was no indication in the Student's IEP that accommodations (such as oral follow-up assessments on summative assessments) were requested or in place for extra-curricular activities. Furthermore, there was no indication from NHS evaluators that the Student's essays were unclear or that the quality of writing was a detriment to application. Instead, was ranked lower than other students in the category of leadership based on the substance of leadership activities. Even if oral follow-up had been an accommodation identified in the Student's IEP as applicable to extra-curricular activities such as National Honor Society, there is no indication that such a process would have changed the outcome of the decision. Finally, the School District has provided accommodations to other students for

extra-curricular activities, underscoring the District's understanding that accommodations may be appropriate for extra-curricular activities for some students.

School District staff also had no indication until after the Student's senior field hockey season was complete that the Parents wanted accommodations to be applied to the Student's participation in field hockey, other than physical health accommodations. The Student's Mother, in a departure from the School District's regular practice, took responsibility for drafting the Student's health plan, rather than the school nurse, and providing it to the Student's field hockey coach. Furthermore, the Parents had direct access to the field hockey coach throughout the season and did not indicate at any point that the Student was not receiving or understanding information. Finally, the Student's Father, and possibly the Student, were registered on the Remind app throughout the season and would have received information about the end of season banquet; it appears from the Student's Mother's communication of November 5, 2019, that the Student was aware of the banquet in advance but chose not to attend.

As such, the School District did not violate the mediation agreement's requirement that a single point of contact oversee all issues related to the Student's special education programming, including implementation of IEP and accommodations by the failure of the single point of contact to introduce the application of accommodations in settings not identified in the Student's IEP.

4. The School District did not remove 11 accommodations from the student's Individualized Educational Program ("IEP") without discussion at an IEP Team. As such, no violation of MUSER VI.2.I occurred.

At the IEP Team's annual meeting on December 9, 2019, attended by the Student and the Student's Father, the School District provided a draft IEP. That IEP removed multiple accommodations and modified a few additional accommodations. The School District did not intend for the changes in the accommodations to result in substantive changes for the Student. Instead, the refining of the accommodations was in response to a recent Department of Education audit that encouraged the District to ensure that accommodations were directly related to a Student's disability and were not actions more appropriately placed in other areas, such as a communication or health plan.

At the December 9, 2019, IEP Team meeting, the altered accommodations were reviewed briefly, with the Student and the Student's Father both indicating they were comfortable with the revised accommodations. As the Parents point out, however, the review was brief, lasting less than two minutes, and the Student's Father did not have the opportunity to compare the accommodations carefully to the prior IEP. A more detailed explanation of the changes would have helped the family to understand them at the IEP Team meeting. Nevertheless, subsequent to the meeting, after more thorough review, the Parents voiced their objection to the changes, at which time Ms. Garneau provided an explanation and also offered to reconvene the Student's IEP Team specifically to review the proposed changes to the accommodations in detail, which the Parent declined. This action of the District, to review the proposed changes in more detail at a second Team

meeting, met the District's obligation to work towards consensus in making determinations as required by MUSER VI.2.I, which states that the IEP Team shall determine the services needed to support a student's involvement and participation in the general curriculum and to achieve agreed-upon goals and that the IEP Team should work towards consensus.

CORRECTIVE ACTION TO BE COMPLETED BY THE DISTRICT

Because no violations were found, there is no corrective action that must be completed by the District.