

**Complaint Investigation Report**  
**Parent v. RSU17/MSAD 17**  
**Complaint 18.067C**  
**Complaint Investigator: Jeannette Sedgwick**  
**March 6, 2018**

The Department of Education received this complaint on January 22, 2018. A complaint investigation meeting was held on February 2, 2018. As part of the complaint investigation, the complaint investigator reviewed all documents, information, and responses from the parties and conducted interviews with the complainant on February 8, 2018 and District staff on February 26 and March 1, 2018. The single issue for the investigation was whether the Student was able to access the curriculum and a free, appropriate public education (FAPE) in a placement where the Student experienced bullying. The investigator considered all information within the year prior to the date the complaint was filed. MUSER XVI(4)(B)(3).

The District has complied with laws and regulations regarding the allegation in this complaint. The Department of Education (“Department”) closes this complaint investigation with this report.

## **FINDINGS**

1. The dates relevant to this complaint are one year prior to the filing of the complaint, during the second half of the Student’s first grade (school year 2016-2017) and the first half of the Student’s second grade (school year 2017-2018).
2. The Student qualifies for special education and related services based on a speech and language disability. The Student’s IEP states that the Student’s disability can cause difficulties in expressing thoughts in class and reading at grade level. The speech and language goals on the Student’s IEP include using past tense verbs and generating questions by changing word order. The Student receives speech and language services 3x30 minutes twice a week.
3. During the Student’s first and second grade, the Student’s education occurred 98% of the time with non-disabled peers in the general education classroom.
4. In a telephone interview, the Student’s Parent discussed her reasons for filing the complaint, which include the Student not wanting to go to school after observing other students’ negative interaction with her friends.<sup>1</sup> The Parent stated that the Student has

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<sup>1</sup> In the interview with the complaint investigator, the Parent raised several concerns outside of the scope of this complaint, including transportation to school for all students in the neighborhood, the District’s reaction to the Parent’s inquiries about school culture, the Parent’s illness, matters regarding parent-school communication, the Parent being witness to a crime, concerns with the educational experience of a child not named in this complaint, concerns with having outdoor recess during cold weather, and town fiscal issues stemming from a large business in town.

involved herself in situations when her friends are being picked on. The Parent stated that the Student herself was bullied since the beginning of this year.

5. The Parent related an instance when the Student reported to her that the Student had recently physically placed herself in front of her friend so that her friend would not be teased by an alleged perpetrator. The Parent was concerned about the actions by three other students toward children other than the Student. When asked, the Parent could not relate any specific instances of bullying of the Student this school year.
6. The Parent stated that she had reported her concerns about bullying to the school but that there was no follow-up to her concerns.
7. The Parent reported that the Student's grades "are OK" but that the Student "is not receiving the best education."
8. The District's response to the allegation included information about academics, attendance records, service provision reports, statements from District staff, and investigation reports. During the second half of the 2016-2017 school year, the Student was absent for two days and was tardy two days. During the first half of the 2017-2018 school year, the Student was absent two days during trimester 1 and 6 days in trimester 2.
9. The Speech-Language therapist who has provided services to the Student provided information that all speech-language sessions have been offered to the Student during the time relevant to this complaint. The therapist has not observed any bullying of the Student in her sessions or at school.
10. In an interview for this complaint, the Student's first grader teacher reported that the Student, who is a "sweet, quiet" child, had reported to her that another Student had not allowed the Student to sit with them at lunch. The teacher investigated the incident and found that because the seat was already occupied, the other student had asked the Student not to sit there. The other student invited the Student to sit with her the next day. This incident did not occur within the timeframe of this complaint.
11. The Student's first grade teacher stated that she did not witness any bullying of the Student in the classroom or on the playground. The teacher also stated that the Student reported that another Student had taken a marker from her in the spring of 2017. The teacher characterized this behavior as very typical for students of this age. The teacher reported that she spoke to the other student about the behavior, after which she witnessed the Student encouraging another classmate to "rip" a writing utensil out of the Student's hand.
12. The Parent reported bullying of the Student on May 26, 2017 at a meeting attended by the Parent, the Student and District staff. The Parent informed District staff that three students had said "bad words to [the Student] on the playground" and would say the Student's name repeatedly. The Parent reported to the complaint investigator that another student had "shoved" the Student. These incidents occurred in approximately the end of April and the beginning of May, 2017. At that meeting, the teacher asked the Student if others were "still being mean to her" or if the Student just didn't want to come to school.

The Student reported that she just didn't want to come to school. At the meeting, the District established a plan for the Student to immediately report incidents to her teacher in the future.

13. Immediately after the May 26, 2017 meeting, the District instituted a heightened observation of the playground and the classroom areas and established a twice-a-day check-in between the Student and the teacher. After recess and at the end of each day, the first grade teacher recorded her inquiries about bullying and the Student's responses. The teacher asked questions such as, "How was recess today?" and "Was everyone nice to you today?" and the Student generally responded that there were no problems. The log indicates that the teacher reported two instances regarding the Student, the first involving a marker discussed above, and another when another student demanded the Student get off a piece of playground equipment. In those instances, the teacher addressed the situation with the other student and provided the Student with suggestions for how to respond when those incidents occurred.
14. The District issued a no-trespass order against the Parent in August 2017 for threats against District staff and other inappropriate behavior. The order specified a particular person who would serve as the Parent's point of contact with the school during the 2017-2018 school year. The point of contact reported that there had not been any reports of bullying from the Parent since being appointed the contact person.
15. The District also provided reports of daily check-ins from January 2018- the present that show no incidents against the Student.
16. The Student's second grade teacher reported no interactions with the Parent about the Student being bullied during the 2017-2018 school year.
17. The Speech-Language Pathologist reported in a letter for this investigation that the Student, "a pleasant and thoughtful young lady" told her about bullying "in first grade last year when [another student] kept saying [her] name over and over again in a mean way" but that she had told the teacher about it at the time it happened. The Student also reported to the Speech-Language Pathologist that there had been no bullying this school year.
18. When interviewed, the District's Special Education Director stated that the Student has received all speech and language therapy sessions and has made progress in that area. She reported that the Student has been provided FAPE.
19. A Progress report dated November 21, 2017 stated that the Student has partially met or fully met her goals for April 2018. Comments on the progress report include positive remarks about the Student's excellent work ethic and her good effort during structured activities. The evaluator wrote about her "amazing work" and congratulated the Student for her "nice job" and for being "such a joy."

## CONCLUSIONS

1. The complainant alleges that the Student is unable to access the curriculum and a free, appropriate public education (FAPE) because the Student's special education and related services occur in a placement where the Student experiences bullying by other students. MUSER IX(3)(A)(1)(d); MUSER II (14). **NO VIOLATION FOUND.**

The documentation submitted and the information gathered from the Parent and District shows that the Student has received FAPE. The Student has attended and made progress in the general education program, has received the services listed on the IEP, and has made progress in speech and language, the area of disability for which she qualifies for special education and related services.

According to the Parent, the underlying issue in this complaint investigation is the District's reaction to reports of bullying, particularly in the spring of 2017. As discussed in the complaint investigation meeting held on February 2, 2018, dispute resolution mechanisms such as complaint investigations must involve allegations of a violation of special education law or regulation. Therefore, the complaint investigator did not investigate whether bullying occurred, but whether the reported bullying prevented the Student from receiving FAPE. In this instance, the Parent provided her opinion about alleged bullying of other children and other school climate issues. The Parent related general concerns with the Student's overall educational experience and the Student's reluctance to attend school during this school year.

The District's information, that reports of negative peer interaction during the Student's first grade (including the time outside of this complaint) were dealt with promptly and that the Student's education has not been interrupted or affected. There have been no reports of bullying during the Student's second grade. The attendance records, grades, and progress reports show the Student is performing well in school and has had the opportunity to succeed in the general education setting as well as in her related services of speech and language therapy. The documentation and the information from District staff support the District's assertion that the Student has been provided FAPE. The Parent herself related that even though the Student was not getting "the best education," she thought the Student was "doing OK" in school and was getting good grades.

There is no violation of law or regulation and no corrective action by the District is required.