

**Complaint Investigation Report**  
**Parent v. York Public Schools**  
**Complaint 18.102C**  
**Complaint Investigator: Jeannette Sedgwick**  
**July 6, 2018**

The Department of Education received this complaint on May 24, 2018. The complaint investigator reviewed all documents and information from the parties and conducted interviews with the complainant on June 22, 2018 and District staff on June 28, 2018. This report will refer to the parent who filed the complaint, the complainant, as “parent,” and the Student’s other parent as “other parent”.<sup>1</sup>

The District has complied with laws and regulations regarding the allegations in this complaint. The Department of Education closes this state complaint investigation with this report.

## **FINDINGS**

1. The Student is a ten year old who was in the fourth grade during the 2017-2018 school year. The Student has struggled in school and is currently at the mid-first to mid-second grade level in mathematics, reading, and writing.
2. The Student’s third and fourth-grade teachers were concerned with the Student’s lack of progress in reading and mathematics, particularly given the Student’s performance after being provided general education interventions such as extra tutorials, small-group instruction, and additional review prior to assessments.
3. The Student’s fourth-grade teacher, who has taught for 18 years, holds a M.A. in Education, and holds a special education teacher’s certificate, was in regular communication with the parent to discuss the Student’s strengths and weaknesses during parent/teacher conferences and other times during the 2017-2018 school year.
4. The Special Education director and other staff have discussed the special education process with the parent on several occasions in the past year.
5. The District referred the Student for special education and related services on April 9, 2018. The Student’s other parent waived 7-day notice for the meeting.
6. The District invited the parent to the IEP Team meeting scheduled for April 25, 2018 via written notice mailed to the parent. The parent received this notice on April 14, 2018. The purpose of the meeting was to discuss the Student’s referral for special education and related services.
7. On April 24, 2018, the parent arrived at the District unannounced to discuss the possibility of rescheduling the IEP Team meeting. The parent requested that the IEP Team meet in June 2018. The District, however, wished to address the Student’s academic needs before the Student entered the next grade and proceeded with the IEP Team meeting with the

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<sup>1</sup> The other parent is not a party to this complaint.

Student's other parent in attendance. The Student's IEP Team discussed the Student's strengths and academic needs.

8. On April 25, 2018, the District communicated to the parent that it would "make every effort to meet" to discuss the referral to special education, including teacher concerns, Student progress and next steps.
9. The Student's other parent provided consent to evaluate on May 2, 2018.
10. The District sent a letter to the complainant on May 16, 2018 with a copy of the IEP Team meeting sign-in sheet, special education referral, and procedural safeguards.

## **DETERMINATIONS**

1. The complainant alleged that the District did not provide the parent with procedural safeguards after an IEP Team meeting in April 2018. MUSER App.1; 34 CFR 300.504. **COMPLIANCE FOUND.**

The parent's perspective is that because she is a parent with shared decision-making rights about the Student's education, procedural safeguards that were offered to the other parent as part of the Student's initial referral should have been sent to both parents.

Maine's special education regulations address the right for one parent to refer a Student for special education and related services. "Generally, either parent may grant consent. In the case of divorced parents with shared parental rights and responsibilities, either parent may grant consent...[and] the school administrative unit is obligated to initiate the action for which consent has been granted."<sup>2</sup> This regulation is in place to ensure that students receive the rights and benefits under special education law and regulation even when parents may disagree about the Student's education.

No law or regulation states that both parents must receive procedural safeguards when a student is referred for special education and related services. The District, having completed its childfind obligations and obtained consent to evaluate, has provided procedural safeguards to the parent who granted consent for the initial referral, as required by law and regulation, and to the parent who filed the request for a state complaint investigation. No violation of law or regulation occurred regarding this allegation.

2. The complainant alleged that the Student's IEP Team has not responded to the complainant's requests for the Student's education. MUSER VI(2)(J). **COMPLIANCE FOUND.**

The parent filed the request for a complaint investigation in part because it is her understanding that special education law and regulation mandate that both parents of a Student who is referred to special education and related services must be involved in the IEP Team process, including attending IEP Team meetings. The complainant's concerns include the following: the District determined which evaluations and evaluator will conduct the evaluation of the Student; the District determined when meetings would occur; and the District has not kept

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<sup>2</sup> Maine Unified Special Education Regulations (MUSER) App. 1.

the complainant's schedule in mind when planning meetings.<sup>3</sup> One of the complainant's main concerns was that her input about the referral process was not taken into account.<sup>4</sup>

Regulations state that Districts must implement policies to ensure that all children in their jurisdiction, beginning at age 3, are identified, located, and evaluated.<sup>5</sup> Districts have the responsibility to ensure that a child is appropriately evaluated based on all areas of suspected disability.<sup>6</sup> Districts must provide evaluations at public expense; accordingly, the District is responsible for providing evaluators to evaluate students.<sup>7</sup>

Documentation shows that in its referral of the Student for special education and related services, the District has properly followed special education law and regulation regarding this Student. District staff, including the Special Education director, have offered to discuss special education matters with the parent and have been in frequent communication about the Student's education and the special education process. Additionally, the District provided advance written notice of the April IEP meeting, met with the parent when the parent arrived at the District without an appointment, and discussed the Student's academic performance and the process of referral and evaluation. No violation of law or regulation has occurred regarding this allegation.

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<sup>3</sup> The parent also raised concerns with communication between District staff and parents. The Department does not have jurisdiction over issues of communication practices by parents or Districts.

<sup>4</sup> The parent stated that she believes the District is "manipulating this process" by seeking consent to evaluate from one parent and not the other. The U.S. Department of Education, Office of Special Education Programs, has provided guidance regarding disputes about special education consent between parents: "The IDEA does not provide a mechanism for parents to resolve disputes with one another; such disputes must be settled privately or through whatever State law processes exist." *Letter to Cox*, 54 IDELR 60 (OSEP 2009).

<sup>5</sup> MUSER IV(2)(A).

<sup>6</sup> MUSER VI(2)(I).

<sup>7</sup> MUSER V(2).