

Complaint Investigation Report
Parent v. Raymond
6/28/2006

Complaint # 06.020C
Complaint Investigator: Sheila Mayberry
Date of Appointment: March 13, 2006

I. Identifying Information

Complainant: Parent

Respondent: Sandra Caldwell
Superintendent
434 Webbs Mill Road
Raymond, Maine

Special Education Director: Mark Ryder

Student: Student
DOB: xx/xx/xxxx

II. Summary of Complaint Investigation Activities

On March 9, 2006, the Maine Department of Education received this complaint. The complaint investigator was appointed on March 13, 2006. The complaint investigator received 56 pages of documents from the Respondent and 36 pages from the parent. Interviews were conducted with the following people: the Student's mother; Jenn Stanford, Community Counseling Center case manager; Jana Tarpinion, Employment Specialist III, Maine Medical Center Vocational Services; Meg Waters, the District's former director of special education; and Lorna Dunn, special education teacher; and Mark Ryder, Special Education Director.

The complaint investigator determined that a complaint investigation meeting was not necessary.

III. Preliminary Statement

The Student is xx years old and attends the xx grade at Windham High School (WHS), Windham, Maine. He receives special education services under the exceptionality of Multiple Disabilities. The Windham School Department (WSD), through its contractual relationship with the Raymond School Department (District), has implemented the Student's IEP. This complaint was filed by the Student's mother, as an interested party, alleging that the District violated the Maine Special Education Regulations ("MSER") in a number of ways, including failing to provide vocational programming as stated in the Student's IEP.

Because of extraordinary circumstances resulting in the availability of only one complaint investigator, an extension of the sixty-day time limit was necessary.

IV. Allegations

1. Failure to implement the Student's IEP with respect to providing vocational programming. MSER § 10.5;
2. Failure to provide appropriate support in mainstream classes. MSER § 10.5;
3. Failure to obtain consent from the Student's parent to provide personally identifiable information to an unauthorized party. MSER § 15.4.

V. Summary of Findings

1. The Student is xx years old and lives in Raymond, Maine with his mother and brother. The mother does not have legal guardianship of the Student. He is in xx grade at WHS in Windham, Maine. He came to the family as a foster child at xx years old and was adopted at xx years old. He attended New Sweden Elementary School in New Sweden, Maine until the xx grade, when the family moved to Standish, Maine. From November 2000 until June 2001, the Student was home-schooled. The Student attended xx and xx grade at Bonny Eagle Middle School in Buxton, Maine until the family moved to Raymond, Maine.
2. The Student's mother reported to the complaint investigator that the Student was diagnosed with mental retardation in xx grade. No other medical history prior to 2003 was presented to the complaint investigator.
3. In February and March 2003, a neuropsychological evaluation was performed by Dr. Bennett S. Slotnick while the Student was attending xx grade at Bonny Eagle Middle School. Dr. Slotnick's report noted that while in New Sweden, the Student was placed in a regular classroom with one-to-one support. While at Bonny Eagle, the Student's educational program consisted of placement in a Resource Room for the entire day with the exception of science class. However, the frequency of one-to-one instruction was minimal.
4. Dr. Slotnick reported the results of the Wechsler Intelligence Scale for Children –III (WISC –III) test. The Student's Full Scale I.Q. was 60, which placed the Student in the "mildly deficient range of intellectual ability." Although there was some variability with respect to subtests, Dr. Slotnick stated that it appeared that the Student's facility for language processing was compromised by his difficulty in processing information presented to him orally, had multiple steps, or was even moderately complex. This impacted his reading, reading comprehension, vocabulary, spelling and writing. He also noted the Student's vulnerability to distractions.

5. Dr. Slotnick also reported that the Student had difficulty and general inefficiency with respect to the executive functions necessary for decision-making and judgment. As a result, the Student was likely to be easily confused, overwhelmed and bewildered in an unfamiliar, changeable or busy environment. This affected his ability to remain focused and attentive. His delayed memory affected his ability to store and retrieve new and unfamiliar material, both abstract and language-based. These deficiencies resulted in the Student's desire to escape, avoid or withdraw from circumstances where he anticipated or experienced difficulty.
6. Dr. Slotnick recommended that the Student's educational programming be directed towards "a more hands-on and functional series of activities designed to prepare him for as independent an adulthood as possible." He suggested courses in industrial arts and home economics. He stated that the Student would benefit from a high school program which blended an awareness of his special education requirements with a more vocationally-oriented educational or instructional program.
7. The Student's mother reported that the Student's transition to high school in his xx year progressed better than anticipated. She stated that he was in the Life Skills classroom and had little difficulty. She reported that the PET decided to enroll him for a half day in the Portland Arts and Technology High School (PATHS) and have him in the Life Skills classroom for the second half of the day for his xx year.
8. During the 2004 summer, the Student attended the Maine Medical Center's (MMC) Youth Employment Program, a vocational job placement for seven weeks. The program is designed for students with special needs.
9. During the 2004-2005 school year, the Student chose to enroll in the hospitality program at the Portland Arts and Technology High School (PATHS). Although he did well in the Life Skills program at WHS, he struggled to complete assignments in the PATHS program.
10. A PET was convened on May 26, 2005. It was decided that the Student would attend xx of high school. It was also agreed that vocational opportunities would be explored at MMC for the next school year. It was also agreed that the PET would meet again in September 2005 to finalize his schedule.
11. During the summer of 2005, the Student again took part in the Summer Youth Employment Program (SYEP), coordinated by MMC.
12. A PET meeting was held on June 15, 2005 to discuss the Student's 2005-2006 programming. The Chairperson of the meeting was Meg Waters, the District's Director of Special Education at that time. A summary of the PET meeting indicated that the Student should attend some classes in a resource setting and some in the mainstream setting. The mother expressed her concern that the Student would be teased in the mainstream classroom, but was willing to have him try being in the U.S. History course. The

Student's transition plan was updated to reflect goals for working during the school year and obtaining his driver's license over the summer. The team also discussed whether the Student should consider attending an extra year of high school to complete vocational training if he could not do so during the 2005-2006 school year. The summary of the meeting stated,

The team next discussed (the Student's) schedule for next year. It was determined that a finalized schedule would be settled in September 2005. Mrs. Dunn will work with Jana Tarpinion to explore the possibility of employment at MMC during the school year 05-06. (The Student's) will work with (the Student) this summer to get his driver's license and explore work opportunities in the surrounding communities. Ms. Bubier recommended that (the Student) continue to pursue the work/school option as the best plan for him. The team agreed. It was agreed that the team would meet again in September 2005 to finalize plans for (the Student's) academic/work schedule next year.

13. The Student's IEP, dated June 16, 2005, indicated that he would be attending Math and English courses in a special education setting. Functional Science and U.S. History would be taught either in self-contained or regular classroom settings. In addition, under "Subject/Learning Area" the IEP stated, "Other: Community Job Maine Med" for 15 hours per week. In the Student's transition plan, attached to the IEP, the activity described for job/vocational training stated, "Explore job opportunities for next school year." Both parents and teachers were responsible for this element of the transition plan.
14. The Student participated in the MMC's Youth Employment Program between July 6, 2005 and August 18, 2005. He worked at Brighton Medical Center as a Storeroom Aide in Central Supply. His hours were Monday through Friday, 9 a.m. to 2 p.m., except on Wednesdays when he worked until 1:30 p.m. in order to attend the 2 p.m. weekly workgroup workshops. These workshops included training in career planning, job seeking, and interviewing skills. An Assessment Report prepared by program administrators Jana Tarpinion and Tira Johnson, reported on the Student's strengths and opportunities for growth. It was reported that the Student was punctual and completed work efficiently and worked well with his supervisor. By the end of the program he learned to consistently check his work and did not shy away from difficult tasks. It was reported that he had difficulty using basic math skills for inventory work; that he had difficulty communicating this in order to get help; that he needed to take more initiative; and that, at times, he had difficulty advocating for himself.
15. The Student began the 2005-2006 school year on September 6, 2005. His schedule was changed on September 14, 2005, to include two afternoon study halls which allowed him to leave the school campus and look for a job. His schedule of courses included Functional Science (period one); Functional English (period two); Functional Math

(period three); Functional Health (period four); Functional U.S. History (period five); Study Hall (periods six and seven); and Functional Prevocational (eight). Although the IEP called for Functional Math, the Student's mother enrolled him in the Consumer Math course, a mainstream course held in a regular classroom, without a PET determination. Also, the Functional Prevocational class was not indicated in the Student's IEP.

16. In a September 12, 2005 e-mail to Lorna Dunn, the Student's special education teacher, PET Coordinator Susan Niedoroda, questioned why the Student was in the Consumer Math class and why a PET had not been convened to discuss the change. She indicated that the course was too difficult for him and that a PET had to be scheduled.
17. It became evident to the math teacher, the Student and the Student's mother early in the fall that the Student was not progressing in the Consumer Math course. Although the Student's IEP indicated that he needed direct instruction in math, the Student's mother was informed that there was only one educational technician available in the mainstream classroom. The Student soon fell behind and thereafter withdrew from the course. On September 14, 2005, he was placed in a Functional Math course in a resource room setting.
18. A PET meeting was held on September 28, 2005. Vocational programming was the focus of the meeting. The team discussed whether the Student should participate in the Cooperative Program, which included training in vocational skills and various other areas that would eventually lead to a job placement. However, the team agreed that the Student did not have the academic skills needed to be successful in the program. Other programs were discussed, including a job training program at Goodwill Industries. It was also determined that the Student would earn two credits if a job placement was arranged. Until this was arranged, he was to continue full time at high school. The Student's mother reported to the complaint investigator that contacting MMC was also discussed but was not memorialized in the PET minutes.
19. During October and November 2005, the Student applied for a job at Goodwill. The mother believed that the Student was reluctant to apply elsewhere until he heard from Goodwill.
20. In a series of e-mails between November 22, 2005 and November 28, 2005 from Stephanie Bubier, the District's guidance counselor, Steve Floyd, Assistant Special Education Director for WSD, and Lorna Dunn, it was noted that there was confusion over who would be investigating vocational opportunities for the Student. Ms. Bubier stated, "At his last PET it was agreed that he should be in a job situation. The possibilities included Goodwill and MMC. Nothing is happening. Mom just left here feeling quite frustrated. I could not tell her what the next step is, in fact, I am not sure whose responsibility it is to be researching this. So I am asking you, cuz (sic) you were at the meeting." Mr. Floyd replied. "It was my understanding from the PET that she was looking at a job for him and was to get back to us?" Lorna Dunn responded, "Yes, (Student's mother) said that she would look into a job for (the Student) at GoodWill [sic] and Hannaford. Then a couple of weeks ago, right before they left for Hawaii, I got a call

from Jenn Stanford (Community Counseling) asking where we were on looking into a job at GoodWill [sic] for (the Student). I called Jen back and said that I thought (the Student's mother) was going to follow up on this, but I would get some information and get back to Jen and (the Student's mother). I will get the contact information today and call (the Student's mother) and Jen Stanford. I will get in touch with Jana at Maine Med about any possibilities there as well."

21. On December 2, 2005, Ms. Dunn initiated contact with Jana Tarpinion at MMC to discuss vocational programming for the Student. Ms. Tarpinion reported to Ms. Dunn that MMC did not have a school year employment program available, but that job development and coaching were available. Ms. Dunn requested that more information be sent to her and to Mr. Ryder, the District's Special Education Director. She also asked Ms. Tarpinion to contact Mr. Ryder by telephone to talk to him more about the program. Ms. Dunn reported to the Student's mother that she had spoken to Jana Tarpinion at MMC. On December 21, 2005, Ms. Dunn reported to the Student's mother that Mr. Ryder had not contacted Ms. Tarpinion.
22. In a chronology of events drafted by Ms. Dunn, she reported that on December 28, 2005, during holiday break, Mr. Ryder left a message to contact him about the Student's vocational programming. She contacted Mr. Ryder during the week of January 9, 2006, about the MMC program. She stated in her chronology that, "At this time, we did not feel that hiring Maine Med to provide job development and coaching for (the Student) was appropriate. We discussed the possibility of (the Student) volunteering rather than working in the community as an option for him to get his 'foot in the door' at Goodwill."
23. The Student's mother reported to the complaint investigator that on January 19, 2006, Ms. Dunn told her that Mr. Ryder would not pay the vocational program at MMC. Ms. Dunn stated that the Student could participate in a food services program instead. The mother said she was so frustrated with the District's conduct in this matter that she contacted the superintendent's office and requested a PET meeting. Although it was scheduled for January 30, 2006, she cancelled it due to a conflict, as well as the fact that her new advocate needed time to review the Student's file. The PET was then scheduled for March 7, 2006. However, it was rescheduled again for March 26, 2006.
24. On March 9, 2006, the Student's mother initiated due process proceedings.
25. The PET convened on March 26, 2006. Lorna Dunn reported that, with respect to the Student's vocational programming, the District determined that MMC did not provide job placements for students during the school year. Instead, it offered job assessment and development activities. The Student's mother stated that she understood MMC's program was designed to help students find and maintain a job, similar to a cooperative program. The PET decided that the District would contract with MMC to conduct a situational vocational assessment with an emphasis on job development. It was also determined that the WSD would contact MMC to initiate job search and job coaching services.

26. In an e-mail sent to the Student's parents and other District staff on March 30, 2006, Linda Powell, WSD Director of Special Education, summarized that she had spoken to MMC representative Jana Tarpinion about the Student's job placement activities. Ms. Tarpinion indicated that MMC was happy to work with the Student on finding a job placement before the end of the school year.
27. In an e-mail dated March 31, 2006, Linda Powell, WSD's Special Education Director, notified the parents and District staff that, according to Ms. Tarpinion, the Student was assigned to an employment specialist who would meet with the Student during one of his study hall periods.
28. In an interview with the complaint investigator, Jenn Stanford, the Student's case manager from Community Counseling Center, reported that she attended the September 28, 2005 PET meeting. She said that it was her understanding that the PET decided Lorna Dunn would contact Goodwill and MMC about job coaching and employment possibilities. She said that there was no timeframe specified, but it was clear that the intent was to move forward with this plan. She stated that by January 2006, the Student's mother was notified by the District that it was not going forward with Goodwill or MMC because the District did not want to pay the fees.
29. In an interview with the complaint investigator, Meg Waters, the District's former Special Education Director, stated that she attended the PET meeting on May 26, 2005. She stated that the PET agreed that the WSD would contact MMC. The PET agreed to meet in the fall to finalize the Student's programming. She stated that she had no information about MMC's school-year program, but understood that its summer program was designed to be a rehabilitation program. She stated that the PET agreed that PATHS was not appropriate for the Student because it was too difficult for him. Since she had left her position by the fall of 2005, she was not aware of any follow-up that occurred with respect to the PET determinations.
30. In an interview with the complaint investigator, Jana Tarpinion, MMC's Employment Specialist, stated that she had been contacted in November 2005 by Lorna Dunn about the Student's vocational programming. She stated that they discussed fee-based vocational services they could provide to the Student during the school year. Ms. Dunn stated to her that Mark Ryder needed to speak directly with her about the program. Ms. Tarpinion told the complaint investigator that, after leaving two telephone messages with Mr. Ryder, she had not heard from him. He never returned her calls. It was not until March 29, 2006 that she heard from Linda Powell. In that conversation, Ms. Tarpinion understood that it was agreed the District would pay for job development services for the Student.
31. Ms. Tarpinion also stated that the Student was ready to move on to a permanent part-time job and was capable of doing so. She indicated that, as of May 30, 2006, he had not found a job through the MMC program, but the staff was confident he was going to get one. MMC had a good lead and was waiting to hear about a job at a grocery store. She also stated that MMC was willing to look at creative ways for the Student to work this

summer if he was not able to find a job by the time she had to take him off the Summer Youth Employment Program (SYEP) roster. The YEP is the seven-week summer work program funded by outside resources, rather than through payment by an employer. It was expected that if MMC was successful in placing the Student in a job, he would not need the YEP program. However, given the timing of his job search, Ms. Tarpinion stated that MMC might be willing to piece something together for him during the summer months.

32. In an interview with the complaint investigator, Linda Powell, WSD's Special Education Director, stated that at the PET meeting in September 2005, it was agreed that the Student's mother would help the student find a job during the afternoon. His schedule was designed to fit an afternoon work schedule. The District agreed to contact MMC to explore its school-year program. Ms. Powell stated that reports from Lorna Dunn indicated that the MMC program was different from the summer program in that it did not have the same placement opportunities available during the school year. She also indicated that since that PET meeting, the District had contacted MMC and worked out a program to help the Student find a job.
33. In an interview with the complaint investigator, Lorna Dunn stated that it was determined at the PET meeting in June 2005 that the Student's schedule would be modified so that he would be able to have the afternoons available for a job. She stated that she contacted Jana Tarpinion in November 2005 and discovered that MMC did not have the same type of job placement that it offered during the summer months. She stated that she requested Ms. Tarpinion contact Mark Ryder to further discuss the matter. She acknowledged that Mr. Ryder did not return her telephone calls.
34. In an interview with the complaint investigator, the Student's mother indicated that during every PET meeting in 2005, the Student's vocational programming was discussed in relation to the District's willingness to have him participate in the MMC program. The Student had attended the summer MMC program for three previous summers. She stated that at the September 2005 PET meeting, Ms. Dunn had agreed to contact both MMC and Goodwill about vocational programs. After inquiring about Ms. Dunn's progress on numerous occasions, it was not until January 2006 that Ms. Dunn informed her that the District was not willing to pay for the MMC program. Ms. Dunn told the mother that the Student could instead participate in the food service program.
35. The Student's mother also stated that it was her understanding, after the September 29, 2005 PET, that all staff members understood that the Student would be attending two study halls in the afternoon, periods 7 and 8. He would then be able to leave during the study halls to look for a job. She was not told that the study halls were periods 6 and 7 and that he had a pre-vocational class for period 8. As a result, he missed this class so often when she picked him up to look for jobs that detention notices were issued. When she inquired about this, she was told that the Student had been enrolled in the prevocational class. No one indicated to the Student or to the Student's mother that he should have withdrawn from the class to look for a job. According to a scheduling document submitted by the District, the class was dropped from the Student's schedule

on January 23, 2006 based upon a telephone conversation the Student's mother had with District staff on January 19, 2006. It was then added back into his schedule after the March 2006 PET meeting when, at that point, the Student had not found a job. The mother reported to the complaint investigator that she was notified at the end of the school year that no credits were issued to the Student for the prevocational class due to his lack of attendance throughout the year.

36. In an interview with the complaint investigator, Mark Ryder, the District's Special Education Director, stated that the PET never agreed to provide a job placement to the Student through MMC during the school year. He stated that the June 15, 2005 IEP reflected a determination that the Student would participate in the MMC summer Youth Employment Program for 15 hours per week. He acknowledged that the IEP was unartfully phrased in that it was ambiguous as to when the placement would occur. He also stated that he recalled one telephone message from Jana Tarpinion from MMC. He denied that the reason MMC was not chosen to work with the Student initially was his decision not to fund the services. He claimed that he did not call her back because Lorna Dunn was the liason between MMC and the District. When asked why MMC was not initially contacted until November 2005, he said, "I can't speak to that." He also acknowledged that the IEP was not changed after the September 2005 PET meeting. He believed that it was the Student's mother's responsibility to find the Student a job. Even though a job could not be found, the Student continued to be placed in the pre-vocational program at the high school for two periods in the afternoon.

VI. Conclusions

Allegation # 1: Failure to implement the Student's IEP with respect to providing vocational programming. MSER § 10.5 **VIOLATION FOUND**

MSER § 10.5 requires that a student's IEP be implemented at the start of a school year. Specifically, it states:

If a school unit is unable to hire or contract with the professional staff necessary to implement a student's Individualized Education Program, the administrative unit shall reconvene a P.E.T. to identify alternative service options. This P.E.T. meeting shall occur no later than 30 days after the start of the school year or the date of the P.E.T.'s development of the I.E.P. The P.E.T. shall determine the compensatory services, if any, necessary to compensate for the lack of services and to ensure the provision of a free appropriate public education.

The District failed to implement the Student's IEP with respect to the vocational programming by not contacting MMC until late November or early December 2005, and by unilaterally deciding not to fund the MMC program without first convening a PET meeting. Under the "Subject/Learning Area" category, the IEP stated that the "other" area of core content subjects and related services included "Community Job Maine Med." A review of PET minutes from the meeting on June 15, 2005, indicated the determination that "Ms. Dunn would explore work opportunities at MMC with Jana Tarpinion for *the next school year.*" (Emphasis added.)

The summary of the meeting stated that “Mrs. Dunn will work with Jana Tarpinion to explore the possibility of employment at Maine Medical Center *during the school year 05-06.*” (Emphasis added.) The Student’s transition plan also included exploring job opportunities *for the next school year.*

The District did not contact MMC until late November or early December 2005. Specifically, Lorna Dunn spoke with Jana Tarpinion about the programs available during the school year. Ms. Tarpinion reported that MMC’s school-year, fee-based program included job placement and job coaching for students, but was not the same Youth Employment Program that the Student had attended during the previous summers. Ms. Tarpinion made it clear that MMC would help the Student find a permanent part-time position. Ms. Dunn was to have Ms. Tarpinion contact Mark Ryder for further information about the program, including funding it. Ms. Tarpinion called Mr. Ryder and left messages on two occasions, but he did not return her phone calls.

Instead of calling a PET meeting to discuss the District’s position with respect to the MMC program, and without further discussion with Ms. Tarpinion, Ms. Dunn reported back to the Student’s mother in January 2006 that the District was unwilling to fund the MMC program for the Student even though it appeared to be an appropriate program for him.

The District claims that the MMC program referred to in the IEP was for the summer MMC program. However, the IEP was never changed to reflect that. It continues to be included in the IEP. Furthermore, the summer program was for a 25-hour per week position, not a 15-hour per week activity, as noted in the IEP. While there is some confusion in the wording of the IEP, the minutes of PET meetings, interviews with District and WSD staff, Ms. Tarpinion, and the Student’s mother, indicate that the District agreed to pursue vocational opportunities offered by MMC. Any misunderstanding of what MMC offered during the school year should have been brought to the PET for discussion. MSER § 10.5

It was only after the PET meeting on March 26, 2006, that the team discussed the matter and decided that the District would fund the MMC program for the Student. Jana Tarpinion was contacted and the Student was set up with a case manager to begin the job search process. As of May 30, 2006, no job had been found. Ms. Tarpinion indicated to the complaint investigator that MMC would be willing to be creative about the job search as the summer approaches and the formal school-year program ends for the summer.

Allegation # 2: Failure to provide appropriate support in mainstream classes. MSER § 10.5.
NO VIOLATION

The Student’s IEP called for Functional Science and U.S. History to be taught in either a self-contained or regular classroom setting. Math and Resource English were to be taught in a self-contained setting. The Student began the 2005-2006 school year with Consumer Math, taught in the regular classroom setting. The Student was placed in this class at the informal request of the Student’s mother. He did not have one-on-one support in this class due to a shortage of educational technicians. However, by mid-September, the Student was frustrated and had fallen behind. It was decided by the mother and the staff that the Student should be placed in

a resource Functional Math class. Since the Student's IEP never reflected a decision to place the Student in a regular math class, his placement back into the Functional Math course was appropriate, given his IEP.

Allegation # 3: Failure to obtain consent from the Student's parent to provide personally identifiable information to an unauthorized party. MSER § 15.4.

NO VIOLATION

The Student's parents allege that the District violated MSER § 15.4 by providing its education consultant with the Student's personally identifiable information.

The Family Educational Rights and Privacy Act (FERPA) and its implementing regulations (34 CF Part 99) are incorporated into MSER § 15.4, which outlines the circumstances under which a student's identifiable information may be released to any person other than designated officials or employees of a school. Specifically, MSER § 15.4 states:

Consent of the parent shall be obtained in writing before personally identifiable information is disclosed to anyone other than designated officials or employees of the school, except as noted below.

The written consent required by this section shall be signed and dated by the parent giving consent and shall include:

- A. A specification of the records which may be disclosed;
- B. The purpose(s) of the disclosures; and
- C. The party or parties to whom the disclosures may be made.

A school shall disclose education records without parental consent upon request from another school or school system in which the student is enrolled or intends to enroll in accordance with the Family Educational Rights and Privacy Act. An administrative unit shall disclose personally identifiable information and education records to authorized staff of the Department of Education and federal Department of Education upon request.

MSER § 15.2 defines education records as:

Education records - Those records which are maintained by a school unit or agency which are directly related to a student and any information pertaining to an identifiable student. The type of

records covered under this term is further defined in the regulations implementing the Family Educational Rights and Privacy Act of 1974.

FERPA further defines those records as:

Those records, files, and other materials, which (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution *or by a person acting for such agency or institution*. (Emphasis added.) 20 USCS § 1232(g)(a)(4)(A).

As noted above, FERPA's privacy protections are extended explicitly to records and materials maintained by persons "acting for" an educational agency or institution. In so doing, FERPA recognizes that educational agencies or institutions do not necessarily perform all operations and services on an in-house basis and, in fact, frequently obtain professional and other business services in consultation with individuals and organizations outside the institutions. See *Letter to Diehl*, 22 IDELR 734 (OSEP 1995). See also *Letter to Bartlett*, 36 IDELR 186 (FPCO 2001); and *Letter to Gavin*, 30 IDELR 541 (OSEP 1998); *Marshfield School (Union 102)*, 22 IDELR 198 (MSEA 1995). FERPA's prior written consent requirement was not intended to and does not prevent institutions from disclosing education records, or personally identifiable information from education records to outside persons performing professional services as part of the operation of the institution. *Id.*

Accordingly, the District did not violate the regulations by providing personally identifiable information to its education consultant without prior written consent. However, the District and any parties acting on behalf of the District, such as its education consultant, would be required to adhere to the record-keeping requirements set forth in MSER § 15.4.

VII. Corrective Action Plan (CAP)

The District shall immediately implement the Student's IEP by contracting with the Maine Medical Center to provide the Student with vocational job search support and coaching. Copies of the signed contract with MMC shall be sent to the Due Process Office, the parent and the complaint investigator.

The District shall immediately convene a PET meeting to discuss and determine the vocational programming for the Student for the 2006-2007 school year. Copies of the PET minutes and amended IEP shall be sent to the Due Process Office, the parent and the complaint investigator.

Compensatory services shall include continued funding through July and August 2006 to support the Student's activities with MMC staff in job searching and coaching activities. A copy

of the description of services and written confirmation of the completion of summer services shall be sent to the Due Process Office, the parent and the complaint investigator.