

Interested Party (████████) v. Lewiston Public Schools
Complaint 19.122CS
Complaint Investigator: Jeannette Sedgwick
August 6, 2019

COMPLAINT INVESTIGATION REPORT

Systemic complaints are those that allege the District has a policy or practice that has resulted in a violation of Maine Unified Special Education Regulations (MUSER) and is, or has the potential to be, applicable to a group of students, named or unnamed. The Department of Education received this systemic complaint on June 13, 2019.

The investigator held a complaint investigation meeting on June 20, 2019. After the complaint investigation meeting, the District responded to the allegations on July 11, 2019, with some proposed remedial actions, and corresponded with the Department in an email dated July 19, 2019 with proposed resolutions, a letter on July 31, 2019, and a letter on August 2, 2019.

The District has proposed a solution to resolve the complaint in accordance with MUSER XVI(4)(a)(1). The District's proposal includes the District's current steps to remediate the problems raised in the allegations memorandum. The Department of Education accepts the District's proposal to remedy previous non-compliance as detailed below and will monitor the District's corrective action plan.

Allegations were as follows:

1. The District has a practice at the Montello Elementary School of over-utilizing Response to Intervention (RTI) instead of timely referring students to special education, specifically student ██████████ referenced in the request for investigation. MUSER IV(2)(C-F).
2. The District's procedures in the Montello Elementary School to create written notice after IEP meetings do not ensure that the written notice after IEP Team meetings accurately reflect the IEP Team's discussions or decisions. 34 CFR 300.503; MUSER App. at 220.
3. The Montello Elementary School has a practice of not implementing transfer students' IEPs immediately upon entering the District. MUSER IX(3)(B)(5).
4. The District has a practice of not providing counseling to students in the Montello Elementary School who have counseling listed as a related service on their IEPs during the 2018-2019 school year. MUSER IX(3)(B)(3).
5. The District has a practice of (a) restraining and secluding students in the K-2 self-contained classroom at the Montello Elementary School so often as to affect the provision of free appropriate public education (FAPE) and (b) sending students home without discipline so often as to affect the provision of FAPE. MUSER IX(3)(B)(3).

CORRECTIVE ACTION PLAN TO BE COMPLETED BY THE DISTRICT

1. This District will organize in-person training to be conducted by an attorney who specializes in special education or by Department of Education staff for the elementary school members of the Social Emotional Team, the RTI coordinator, Montello's principal and assistant principals. Training will consist of the following:
 - a. The intersection and differences between RTI and child find responsibilities.
 - b. Criteria for suspecting that a student has a disability and needs special education.

Training should be completed by **October 30, 2019** and the District must submit to the Department a sign-in sheet with names, titles, and signatures and the agenda for the training.

2. **By September 15, 2019**, the District will submit to the Department a description of its current practice for writing and reviewing written notices after IEP Team meetings take place.
3. The District will address the special education needs of students who transfer into the District in the following ways:
 - a. **By September 15, 2019**, the District will hold an IEP meeting to determine the named Student's number of hours of missed specialized instruction and related services that were missed during the 2017-2018 school year and details about how and when compensatory services will be provided.
 - b. The District will provide written notice of the meeting, including the details of compensatory action, including what kind of services, who will be providing them, the schedule of services, and expected completion date of those services to the Department by **October 30, 2019**.
4. One special education student, of the twelve referenced in the complaint, was found by the District to have missed counseling services. The District will do the following:
 - a. **By September 15, 2019**, provide to the Department a detailed description of the efforts undertaken to determine how many special education students in the Montello Elementary School have missed counseling services.
 - b. **By September 15, 2019**, hold an IEP meeting to determine the named Student's number of hours of counseling that were missed during the 2018-2019 school year and submit to the Department details about how and when compensatory services will be provided. The District will also inform the Department after the services have been completed.
5. The District has committed to improve the self-contained, K-2 program at Montello Elementary School in the following ways:
 - a. The District will hire a new teacher for that program.
 - b. The new lead teacher and a social worker assigned to the classroom will be trained during the first week in August 2019 in writing effective behavioral plans and implementing healthy behavioral strategies.

- c. The District is reviewing the program with the help of the Center for Children with Special Needs, an organization that will remain contracted with the District for staff consultation and training
- d. The District will provide all staff in the K-2 self-contained classroom, including the lead teacher, social worker, BHPs and education technicians, with once-a-month training by a behavioral expert in implementing effective behavioral strategies.
- e. The District will conduct a file review for students who had been in the self-contained classroom last year and will meet with the IEP Teams of students who are in need of programming and placement changes according to the students' current educational needs.

The District will provide documentation of the corrective action steps in #5 to the Department on **October 30, 2019** and **December 15, 2019**.