

### COMPLAINT INVESTIGATION REPORT

**Complaint Number:** CI # 21-05  
**Complaint Filed By:** Michelle McGovern  
**Complaint Investigator:** Roy Anderson

#### Summary of Administrative Complaint

##### **Complaint Issues:**

1. Whether the Yukon Flats School District convened Individual Education Program (IEP) Team meetings to review students' IEPs periodically, but not less than annually.
2. Whether the Yukon Flats School District ensured that not less than one regular education teacher of each student was a member of the IEP Team convened to review each student's IEP.
3. Whether the Yukon Flats School District asked a regular education teacher to sign IEPs indicating that the teacher participated in IEP development when IEP meetings had not occurred.

#### Summary of the Investigation

##### **Interviews/Written Testimony:**

<u>Name</u>	<u>Relationship</u>	<u>Date</u>
Michelle McGovern	General Education Teacher, 3 <sup>rd</sup> and 4 <sup>th</sup> grades	February 10, 2021 February 25, 2021
Gale Pratt (written testimony)	Special Education Director	Received on February 23, 2021
Daniel Griffin	General Education Teacher, Kindergarten	March 2, 2021
Gale Pratt	Special Education Director	March 3, 2021 March 10, 2021 March 11, 2021
Foster Parent	Student Three	March 10, 2021

##### **Documents Received/Used by Investigator From:**

##### Department of Education & Early Development

1. Complaint Intake Form dated February 4, 2021, concerning CI # 21-05.
2. Letter of Complaint from complainant dated January 27, 2021.
3. Notification letters to Yukon Flats School District (YFSD) Superintendent and complainant regarding the appointment of complaint investigator dated February 4, 2021.

##### Yukon Flats School District

1. A copy of the cover page of Student One's IEP dated December 11, 2019.
2. A copy of the IEP cover page with a meeting date of February 28, 2020, amending the December 11, 2019 IEP of Student One (marked "amended without a meeting").
3. A copy of the cover page for an annual IEP for Student Two dated March 20, 2019.

4. A copy of the cover page for an amended IEP for Student Three dated April 10, 2020 (marked “amended without a meeting”).
5. Written testimony dated February 23, 2021, and email correspondence (various dates) received from YFSD’s Special Education Director.

### Complainant

1. Email correspondence to Investigator from complainant dated February 25, 2021, and March 8, 2021.

### **Findings of Fact**

1. The students referenced in this report reside in the attendance area of the YFSD and were identified by the District as children with a disability under the Individuals with Disabilities Education Act (IDEA).
2. The complainant indicated that the three students (identified here as Student One, Student Two and Student Three) were students in her classroom at various points during the time period covered by this complaint.

### Issue 1:

#### Student One:

3. Student One’s annual IEP was developed on December 11, 2019.
4. Student One’s next annual IEP was scheduled to be developed on or before December 11, 2020.
5. Student One’s IEP was amended on February 28, 2020, but the amendment was not a new “annual” IEP and did not extend the annual IEP review date.
6. The YFSD did not develop an annual IEP for Student One on or before December 11, 2020.

#### Student Two:

7. Student Two’s annual IEP was developed on March 20, 2019.
8. Student Two’s next annual IEP was scheduled to be developed on or before March 20, 2020.
9. The YFSD did not develop an annual IEP for Student Two on or before March 20, 2020.

#### Student Three:

10. Student Three’s annual IEP was developed on December 11, 2019.
11. Student Three’s next annual IEP was scheduled to be developed on or before December 11, 2020.
12. Student Three’s IEP was amended on April 10, 2020, but the amendment was not a new “annual” IEP and did not extend the annual IEP review date.
13. Student Three withdrew from the YFSD on May 5, 2020. This date was prior to Student Three’s annual review date of December 11, 2020.

### Issue 2:

14. The complainant, a regular education teacher, indicated in an interview that she had not been invited to nor did she attend any IEP meetings for the students in her classroom.

15. The only two IEPs that exist for review within the one-year jurisdiction for this complaint investigation are the IEP amendment developed for Student One on February 28, 2020, and the IEP amendment developed for Student Three on April 10, 2020. Both of these IEPs indicate that the IEPs were “amended without a meeting.”

Issue 3:

16. The complainant stated in an email: “I have signed only one IEP document ... it was last spring (April 2020), and it was for my student at the time [student name], ... [special education teacher] wanted me to sign it, even though no IEP meeting ever occurred. At the time, I had no idea about anything SPED, so I just signed it because [special education teacher] asked me to.”

17. The IEP amendment dated April 10, 2020, for Student Three indicates the IEP was “amended without a meeting” and the signature of the complainant who was the student’s regular education teacher does not appear.

**Conclusions and Reasons**

*Issue 1: Whether the Yukon Flats School District convened IEP meetings to review students' IEPs periodically, but not less than annually.*

Allegation: The complainant alleges that YFSD did not conduct annual IEP meetings as required by state and federal law.

Applicable Federal Legal Standards:

Federal regulations at 34 CFR 300.324(b)(1)(i) require that the IEP Team must review the child’s IEP periodically, but not less than annually and revise as necessary.

Applicable State Legal Standards:

Alaska state regulations at 4 AAC 52.140 regarding development of individualized education programs adopt 34 CFR 300.320 - 300.328 by reference.

Discussion:

The three students referenced in this complaint were identified by YFSD as students eligible to receive special education and related service under the IDEA (Finding of Fact 1). During the one-year time period covered by this complaint, the complainant was the regular education teacher for these students (Finding of Fact 2).

According to documents provided by the District, Student One’s IEP was developed on December 11, 2019 (Finding of Fact 3). Student One’s next annual IEP review date was December 11, 2020 (Finding of Fact 4). The District amended Student One’s annual IEP on February 28, 2020, but the amendment was not an annual review and did not extend the annual IEP review date (Finding of Fact 5). The District did not conduct an annual review of Student One’s IEP by December 11, 2020 (Finding of Fact 6).

According to documents provided by the District, Student Two’s IEP was developed on March 20, 2019 (Finding of Fact 7). Student Two’s next annual IEP review date was March 20, 2020 (Finding of Fact 8). The District did not conduct an annual review of Student Two’s IEP by March 20, 2020 (Finding of Fact 9).

According to documents provided by the District, Student Three's IEP was developed on December 11, 2019 (Finding of Fact 10). Student Three's next annual IEP was scheduled to be developed on or before December 11, 2020 (Finding of Fact 11). The District amended Student Three's IEP on April 10, 2020, but the amendment was not an annual review and did not extend the annual IEP review date (Finding of Fact 12). Student Three withdrew from the District on May 5, 2020, prior to his annual IEP review date of December 11, 2020 (Finding of Fact 13).

IEPs for Student One and Student Two were not reviewed and revised annually as required by federal and state regulations.

**Therefore, violations of 34 CFR 300.321(b)(1)(i) and 4 AAC 52.140 have occurred.**

*Issue 2: Whether the Yukon Flats School District ensured that not less than one regular education teacher of each student was a member of the IEP Team convened to review each student's IEP.*

Allegation: The complainant alleged that as her students' regular education teacher, she was not invited to any IEP Team meetings and never participated, as an IEP Team member, in the development of her students' IEPs.

Applicable Federal Legal Standards:

Federal regulations at 34 CFR 300.321(a)(2) require that YFSD include "not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)" as a member of the child's IEP Team.

Federal regulations at 34 CFR 300.324(a)(4)(i) provide that "[i]n making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child's current IEP."

Applicable state Legal Standards:

Alaska state regulations at 4 AAC 52.140 regarding development of individualized education programs adopt 34 CFR 300.320 - 300.328 by reference.

Discussion:

The complainant, a regular education teacher, indicated in an interview that she had not been invited to nor did she attend any IEP meetings for the students in her classroom (Finding of Fact 14). The only two IEPs that exist for review within the one-year jurisdiction for this complaint investigation are the IEP amendment developed for Student One on February 28, 2020, and the IEP amendment developed for Student Three on April 10, 2020 (Finding of Fact 15). Both of these IEPs indicate that the IEPs were "amended without a meeting" (Finding of Fact 15).

Because the only two IEP documents that exist for review within the one-year jurisdiction for this complaint investigation were IEP amendments that were "amended without a meeting," there was no requirement for regular education teacher participation, because no meetings were held.

**Therefore, violations of 34 CFR 300.321(a)(2) and 4 AAC 52.140 have not occurred.**

*Issue 3: Whether the Yukon Flats School District asked a regular education teacher to sign IEPs indicating that the teacher participated in IEP development when IEP meetings had not occurred.*

Allegation: The complainant, a regular education teacher, alleged that the District asked her to sign IEP paperwork when she had not attended an IEP meeting.

Applicable Federal Legal Standard:

Federal regulations at 34 CFR 300.321(a)(2) require that YFSD include “not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)” as a member of the child’s IEP team. It follows that a school district may not ask a regular education teacher to sign an IEP indicating that the teacher participated in its development when the teacher did not attend the meeting.

Applicable State Legal Standard:

Alaska state regulations at 4 AAC 52.140 regarding development and implementation of individualized education programs adopt 34 CFR 300.320 - 300.328 by reference.

Discussion:

The complainant stated in an email: “I have signed only one IEP document ... it was last spring (April 2020), and it was for my student at the time [Student Three], ... [special education teacher] wanted me to sign it, even though no IEP meeting ever occurred. At the time, I had no idea about anything SPED, so I just signed it because [special education teacher] asked me to” (Finding of Fact 16). The IEP amendment dated April 10, 2020, for Student Three indicates the IEP was amended “without a meeting” and the signature of the complainant who was the student’s regular education teacher does not appear (Finding of Fact 17).

The investigator notes that Issue #3 in Complaint Investigation # 21-04 contains findings of violation concerning the signatures of individuals as participants on an IEP document when the IEP Team meeting did not take place and the IEP was not amended without a meeting.

**Therefore, violations of 34 CFR 300.321(a)(2) and 4 AAC 52.140 have not occurred.**

**Corrective Action Required**

The Yukon Flats School District is ordered to cease the violation of federal and state law that has been identified in this investigation.

1. Corrective actions for Student One have been addressed in Complaint Investigation # CI 21-04.
2. If it has not already been accomplished, within 15 days of receiving this complaint investigation report YFSD will convene an annual IEP Team meeting for Student Two. If a meeting has already occurred, within 15 days of receiving this complaint investigation report, YFSD will provide to the Alaska Department of Education and Early Development (DEED) copies of Student Three’s recently completed IEP. If a meeting has not yet occurred, within 15 days after convening the meeting, YFSD will provide to the Alaska DEED a copy of the completed IEP.
3. In three of the four IEPs reviewed in # CI 21-04 and 21-05, YFSD was found to have violated the requirement for developing IEPs on an annual basis. For this reason, by April

15, 2021, the District must develop and send to the Alaska DEED a list containing the following information for each student with an IEP at Fort Yukon School:

- a. Name of student
  - b. Grade of student
  - c. Date of last annual IEP meeting
  - d. If the date of the last annual IEP meeting was more than one year from the date of this complaint investigation report, the date by which the student's annual IEP will be reviewed, which must occur no later than May 15, 2021.
4. For each student on the list in #3 whose last annual IEP meeting was more than one year from the date of this complaint investigation report, no later than June 1, 2021, the YFSD must submit documentation to the Alaska DEED demonstrating that student's annual IEP was developed by May 15, 2021.

**Date Report Completed: March 18, 2021**