




Karen B. Salmon, Ph.D.
State Superintendent of Schools

December 23, 2019




Ms. Trinell Bowman
Director of Special Education
Prince George's County Public Schools
John Carroll Center
1400 Nalley Terrace
Landover, Maryland 20785

RE: 
Reference: #20-061

Dear Parties:

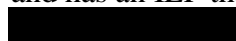
The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigation.

ALLEGATION:

On November 26, 2019, the MSDE received a complaint from Ms.  hereafter, "the complainant," on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Prince George's County Public Schools (PGCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related State requirements with respect to the student.

The MSDE identified the allegation that the PGCPS has not ensured that the complainant has been provided with progress reports and the student is being provided with supports required by the Individualized Education Program (IEP) during the 2019-2020 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is eleven (11) years old, is identified as a student with a disability under the IDEA, and has an IEP that requires the provision of special education and related services. She attends  Elementary School.

FINDINGS OF FACTS:

General

1. The student is identified with an Emotional Disability under the IDEA. The student has a documented history of anxiety and oversensitivity to criticism from teachers and peers. The school psychologist has reported that the student “misperceives and personalizes everything the teacher does and believes she is the target of an attack even when the teacher’s comments or actions are not about her at all.”
2. The IEP includes a goal for the student to identify her feelings and demonstrate appropriate coping strategies and problem solving skills “when presented with real or imagined social conflict situations.” The IEP requires the provision of social, emotional, and behavioral supports.

Progress Reports

3. The IEP in effect since the start of the 2019-2020 school year states that the complainant is to be provided with reports of the student’s progress towards achievement of the annual IEP goals on a quarterly basis.
4. On December 6, 2019, the complainant received reports of the student’s progress towards achievement of the annual IEP goals following the completion of the first (1st) quarter of the 2019-2020 school year.

Water Breaks and Restroom Access

5. The IEP in effect since the start of the 2019-2020 school year states that the student has “chronic kidney disease.”
6. The IEP states that the student is to be provided with “unlimited water breaks (including carry a personal water bottle throughout the day)” and that she is to be provided with “unlimited access to the restroom.”
7. On Friday, September 6, 2019, the fourth (4th) day of the school year, the complainant sent an electronic mail (email) message to the school staff expressing concern that a substitute teacher refused to allow the student to use the restroom during class.
8. On Monday, September 9, 2019, the school staff responded that they would ensure that all substitutes are informed of the student’s need for restroom breaks. On the same date, the complainant sent an email back to the school staff stating that the student was “repeatedly being refused to use the restroom.”
9. On Tuesday, September 10, 2019, during the school day, the complainant sent the school staff an email indicating that the student had just contacted her, while at school, to report that a teacher refused her request for a restroom break, and stating that this same teacher had refused to allow the student to use the restroom on one (1) day the previous week. The

complainant further stated “I’m sick of this [expletive]!,” and “I don’t know if the staff are too stupid to comprehend or just plain don’t care. Either way, it’s being documented, reported to [the United States Department of Education, Office for Civil Rights] (OCR) and other places.”

10. On October 7, 2019, the school staff responded to concerns from the complainant that the student was denied water and the use of the restroom. In that response, the school staff explained that the student was not told she could not use the restroom, but was told that she could not take her backpack to the restroom. The response also explains that the student was not told she could not have water, but was asked to wait to get water for the rest of the class, which was being lined up after coming in from recess.
11. On October 11, 2019, the complainant sent the school staff an email reporting that the teacher who was the subject of the September 10, 2019 email made the student obtain water from “a dirty classroom sink” in the classroom instead of the water fountain, as student had requested. The complainant informed the school staff that she had previously filed a child abuse report against the teacher with Child Protective Services (CPS) for not allowing the student requested water and restroom breaks, and that she had also filed complaints to the OCR and Disability Rights Maryland, an advocacy organization. She further informed the school staff that she would be filing additional reports with CPS and OCR as a result of what occurred on October 11, 2019.
12. On October 25, 2019, the complainant’s advocate conducted an observation of the student at school. The report documents that about one-third (1/3) of the class were observed to have water on their desks and that the student had a plastic bottle with a dark liquid that could have been soda or tea. The report documents that the student was observed to leave the classroom on two (2) occasions during reading/language arts class, and noted that this resulted in her being behind in the lesson.
13. On November 25, 2019, the complainant reported to the school staff that, at lunch, a reading specialist told all of the students that they were not allowed to get water or use the restroom, and that when the student announced that she was permitted to do so because it is in her IEP, the reading specialist, who worked with the student in the past, indicated that she was unaware of this.
14. On November 26, 2019, the school staff inquired about the matter with the reading specialist and was assured by the reading specialist that the student was, in fact, permitted to get water and use the restroom, which the school staff shared with the complainant. In response, the complainant wrote: “Only after she was made to feel like she was lying and [the reading specialist] checked with another teacher to verify she was telling the truth.”
15. There are substitute teacher lesson plans and hall passes that document that the student is permitted to leave class to use the bathroom and to get water.

Calculator

16. The IEP in effect since the start of the 2019-2020 school year includes a math problem solving goal for the student to use mathematical steps/strategies with a graphic organizer to show steps to mathematical word problem solving and use word clues to aid in problem solving.
17. The IEP also includes a math calculation goal for the student to solve addition, subtraction, and multiplication problems.
18. The IEP states that the student “would benefit from the use of [a] calculator on calculator sections of class assessments, county assessments,” and Statewide assessments.
19. On October 30, 2019, the complainant sent an email to the school staff expressing concern that the student was told by a new substitute math teacher that she did not need a calculator for an assignment. The complainant stated “this continues to happen,” and indicated that she does not believe that the teachers have the student’s IEP.
20. On October 31, 2019, the school staff responded to the complainant that she confirmed that the substitute teacher had the IEP, but did not interpret it to require the use of a calculator on the assignment given. The school staff indicated that, while she also did not interpret the IEP as requiring a calculator for all assignments, it would be made available on the desk for all of the student’s work.
21. On November 13, 2019, the complainant sent another email to the school staff expressing concern that when the student reminded the same substitute math teacher that the school staff were required to provide her with a calculator, the math teacher said she was not aware of that. On the same date, the school staff reassured the complainant that the student has a calculator, and explained that the student had asked the substitute math teacher to take the calculator home with her, and was told that it was for school use only.
22. A chart of accommodated students for the administration of math benchmarks, dated November 2019, and work samples with accommodations checklists document that the student is provided with the use of a calculator and other accommodations.
23. The first (1st) quarter progress report on one of the math goals states:

She has a calculator readily available for her to use but she uses discretion in when/how she chooses to employ this strategy.
24. The progress report for the other math goal states:

Though [the student] has a calculator readily available to her, she sometimes prefers to work through a problem before utilizing this additional step. She will more readily use it to check her work once she has attempted to solve the problem.

Chromebook

25. The IEP in effect since the start of the 2019-2020 school year states that the student has fine motor skills needs. It states that she demonstrates functional fine motor mechanics skills, and is working on using a tripod grasp for writing. It further states that the student has a pencil grip to assist with this, which she is not consistently using, and that she has used paper with every other line highlighted to give her space to edit her work and promote her writing on the indicated line. It also states that practice producing handwriting has resulted in a decrease in the student's need for highlighted lines and that this should be continued "to promote the movement to motor memory."
26. The IEP includes a goal for the student to write a short five (5) sentence paragraph using varied sentence structure, punctuation, grammar and writing mechanics, correcting spelling and grammar errors through a variety of sources such as the dictionary, peers, adults, other written material, and word processing. It also includes a goal for the student to write an organized report including an introductory sentence, one (1) to two (2) body paragraphs, and a concluding sentence.
27. The IEP requires that the student be provided with special education instruction and related occupational therapy services to assist her in achieving the goals. The IEP requires the provision of occupational therapy both inside and outside of the classroom to assist her with demonstrating effective finger movements for writing and with determining the modifications needed to enhance her writing organization and production of written work.
28. The IEP states that the student uses assistive technology to write longer assignments as appropriate for the academic task to be completed, and that she "should be provided access to a word processor, Chromebook, laptop, or desktop computer when completing assignments and assessments such as research reports, book reports, and essays in the classroom environment."
29. On October 24, 2019, the complainant sent the school staff an email message expressing concern that a teacher asked the student why she needed to use the Chromebook for an assignment.
30. On October 25, 2019, the complainant sent the school staff an email indicated that the student reported that the teacher told her that the teacher was "still working on reading the IEP."
31. On October 28, 2019, the school staff shared with the complainant the teacher's response to the assertion that she was not aware of the student's Chromebook accommodation. In her response, the teacher indicated that she asked the student what she was going to use the Chromebook for, and the student began to cry. The teacher also indicated that the student was provided with the Chromebook. On the same date, the complainant responded "So the email below is proof that [the student] was NOT given the accommodations listed on her IEP."

32. The student's work samples reflect her completion of assignments by hand and with the use of assistive technology.

Class Notes and Outlines

33. The IEP states that the student is to be provided with "a copy of student/teacher notes and/or outlines...especially when she leaves the classroom for other instruction."
34. The report of the October 25, 2019 observation of the student at school by the complainant's advocate documents that the teacher was observed instructing the student to use the notes developed by the student who was seated next to her. The observation report indicates that the student was engaged in the lesson, "appeared to be motivated and participated by completing her assigned tasks (copying from the board, volunteering and answering questions, reading silently, and completing written tasks)." However, the observer questioned the student's "comfort level/relationship with classmates," and noted that the student did not engage with them when the class was instructed to discuss a reading passage.
35. There are teacher notes and work samples with accommodations checklists that document that the student has completed work with the provision of teacher notes and outlines.
36. The first (1st) quarter progress report on the math goal for the student to solve word problems by drawing pictures or writing equations to determine the solution states that the student is able to highlight key terms in a word problem to assist with determining the correct computation step needed to solve the problem. It states:

She seems to really enjoy math and works very deliberately at solving math problems given to her. When given the opportunity to write notes from the board, [the student] will meticulously write them in her notebook to refer to as she works through a problem. Furthermore, she also shows a more mature approach to solving math problems than many of her grade level peers.

37. On November 18, 2019, the complainant sent an email message to the school staff expressing concern that the student was being rushed when she is copying from the board, and that the teacher told the student to copy from her neighbor.

Graphic Organizers

38. The IEP in effect since the start of the 2019-2020 school year states that the student "would benefit from the use of [a] graphic organizer to assist [with] collecting ideas, organiz[ing] information, and identify[ing] key ideas when completing an assignment and completing assessments" including Statewide assessments.
39. The IEP includes a goal for the student to state a theme and one (1) of two (2) supporting details accurately in three (3) out of four (4) trials given an independent level literary text with key details highlighted, a partially completed theme graphic organizer and guiding questions.

40. The report of the October 25, 2019 observation of the student in school by the complainant's advocate reflects that the teacher was observed drawing a graphic organizer for the students to use.
41. There are work samples with accommodations checklists that document that the student has completed work with the provision of graphic organizers.
42. The first (1st) quarter progress report on the goal states that the student "works with ease with or without a graphic organizer to convey her thoughts and understanding of text that she has read or that has been read to her." It further states:

She is learning to consistently differentiate between the main idea of a text and the theme. However, she is able to more consistently utilize key details from a literary grade level text, whether selected by the teacher or independently by her, to answer comprehension questions about her thoughts concerning what the author intended for the reader to know/learn.
43. The first (1st) quarter progress report for the math goal states that the student is able to show her understanding of how a math problem should be solved "with and/or without the use of a graphic organizer." The progress report further states that the student "utilizes a variety of steps/strategies to solve mathematical word problems that include, but are not limited to self-made graphs, designs, drawings, tally marks and/or charts."
44. In addition to the above supports, the IEP requires the provision of the following:

Highlighting tools to assist with identifying main ideas, key points, and details read in texts;
Small group testing;
Monitoring of test responses;
Extended time for completing tasks;
Practice of math facts
Math strategies list;
Wait time;
Reduction of distractions;
Checks for understanding;
Alternative ways to demonstrate learning;
Word bank;
Frequent and immediate feedback;
Organizational aids;
Frequent changes in activities or opportunities for movement; and
Monitoring use of an agenda book.
45. In addition to the email exchanges listed above, there are emails that demonstrate that the complainant regularly expresses concern to the school staff about how the IEP is being implemented and how the student is being treated by the school staff based on information obtained from the student.

DISCUSSION/CONCLUSIONS:

Progress Reports

In this case, the complainant alleged that the PGCPs had not ensured that progress reports were provided as required by the IEP because she had not received them by November 25, 2019, the date she filed the State complaint, and that report cards had been issued on November 19, 2019.

The IDEA requires that the IEP include a description of “when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided” (34 CFR §300.320). The IDEA also requires that all of the services and supports described in the IEP be provided consistent with the IEP document (34 CFR §§300.101 and .323).

When responding to comments on the IDEA regulations, the United States Department of Education, Office of Special Education Programs (OSEP) rejected a commenter’s suggestion that the IDEA requires progress reports to be provided with school report cards. Instead, the OSEP indicated that such reports must be provided in accordance with the IEP (*Federal Register*, Vol. 71, No. 156, August 14, 2006, p. 46664).

Based on the Finding of Fact #3, the MSDE finds that the IEP states that reports will be made on a quarterly basis. Based on the Finding of Fact #4, the MSDE finds that the complainant has been provided with a progress report for the first (1st) quarter of the school that has been completed, as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

IEP Supports

Based on the Findings of Facts #1, #2, and #5 - #45, the MSDE finds that there is evidence that the student is being provided with the supports required by the IEP, in accordance with 34 CFR §§300.101 and .323, but that the complainant is unhappy with the manner in which they are provided, including the frequency and consistency of their use.

Further, based on the Findings of Facts #16 - #18, #20, #25 - #28, the MSDE finds that the IEP does not require that all supports be provided to the student with the frequency and consistency expected by the complainant.¹ Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

¹ For example, a calculator may not be used for all math work if the student is to make progress on a goal to improve math calculation. Likewise, if the student uses a Chromebook to complete all written work, she would not be able to make progress with demonstrating effective finger movements for writing.

Ms. Trinell Bowman

December 23, 2019

Page 9

TIMELINE:

As of the date of this correspondence, this Letter of Findings is considered final. This office will not reconsider the conclusions reached in this Letter of Findings unless new, previously unavailable documentation is submitted and received by this office within fifteen (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation.

The parties maintain the right to request mediation or to file a due process complaint, if they disagree with the identification, evaluation, placement, or provision of a Free Appropriate Public Education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Early Intervention and Special Education Services

MEF/aam

c: Monica Goldson
Gwendolyn Mason
Barbara VanDyke
Gail Viens
[REDACTED]
Dori Wilson
Anita Mandis

schoo