




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

March 20, 2020




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

RE:   
Reference: #20-090

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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.

**ALLEGATIONS:**

On January 22, 2020, the MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her son, 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) with respect to the student.

The MSDE investigated the following allegations:

1. The PGCPS has not ensured that the Individualized Education Program (IEP) addresses the student’s needs arising out of a reading and writing disability and his need for extended time to complete work, in accordance with 34 CFR §§ 300.324 since September 16, 2019.

2. The PGCPS did not ensure that the student was provided with the supports required by the IEP since September 16, 2019, as follows, in accordance with 34 CFR §§ 300.101 and .323:
  - a. The student's teachers are not providing a reduced workload;
  - b. The teachers are not providing checks for understanding, specifically, before beginning a task or assignment, teachers are not checking in with the student to be sure he understands what is expected of him;
  - c. The teachers are not monitoring independent work to ensure that the student is on task and completing work; specifically the teacher is not checking in with the student twice as often as the other students to ensure that he is on task and completing the assignment as expected;
  - d. The teachers are not utilizing strategies to assist the student to remain on task;
  - e. The teachers are not providing a research based intervention program for reading and math;
  - f. The teachers are not providing altered/modified assignments; specifically, teachers are not assigning the student half the assigned spelling words, classwork, and homework;
  - g. The teachers are not breaking down assignments into smaller units;
  - h. The occupational therapist is not consulting with the school system to identify strategies to support the student's participation in school routines;  
and,
  - i. The student is not being provided with a small group setting in which to work.

**BACKGROUND:**

The student is ten (10) years old and is identified with an Other Health Impairment (OHI) under the IDEA related to Attention Deficit Hyperactivity Disorder (ADHD). He has an IEP that requires the provision of special education instruction.

The student has attended [REDACTED] School. However, since March 16, 2020, there has been a Statewide closure of all schools as a result of a national outbreak of respiratory disease caused by a new coronavirus named coronavirus disease 2019 (COVID-19).

## **ALLEGATION #1 ADDRESSING THE STUDENT'S NEEDS**

### **FINDINGS OF FACTS:**

1. The IEP in effect at the start of the 2019-2020 school year was developed at an IEP team meeting held on November 7, 2018. The documentation of the meeting reflects that the team considered the results of psychological, educational, occupational therapy, and speech/language assessments conducted by the PGCPS as well as an Independent Educational Evaluation (IEE). The data indicates that the student has “average to low average” cognitive ability, and that his Attention Deficit Hyperactivity Disorder (ADHD) results in difficulty staying focused throughout instruction.
2. The report of the occupational therapy assessment states that the student was observed in the classroom where writing assignments were given. The evaluator indicated that the student’s handwriting is legible, but that he was easily distracted and required multiple cues to start work and to stay on task. The evaluator found that the student’s short attention span and inability to attend to tasks impacts his ability to initiate, complete, and organize steps to a task.
3. The educational assessment report indicated that the student was performing in the “average” range in all areas of written language and the student was determined to be performing on grade level (fourth grade) in this area. Therefore, the team decided that written language was not an area impacted by the student’s disability.
4. The report of the speech/language assessment states that the student demonstrated “age appropriate” receptive and expressive language skills, but had difficulty with following directions. Therefore, the team decided that this was not an area impacted by the student’s disability.
5. The report of the educational assessment stated that the student was performing in the “low average” range in reading decoding, ability to comprehend connected text while reading, oral sight word reading, silent reading comprehension speed, and ability to comprehend passages while reading silently. Based on the data, the team determined that the student was performing at two (2) levels below grade level (second grade) in these areas and identified them as areas in which the student’s academic achievement was impacted.
6. The team developed goals for the student to improve his skills in reading. The IEP required the provision of special education instruction to assist the student in achieving the goals, as well as participation in an evidence-based reading intervention. The IEP also required several supports, including extended time (time and a half) to allow the student to complete assignments, monitoring of student work, paraphrase questions and instruction, check for understanding, repetition of directions, breaking down of assignments, strategies to initiate and sustain attention, and preferential seating.

7. Progress reports issued on February 8, 2019 indicate that the student was making sufficient progress to meet his reading phonics, reading fluency and reading comprehension goals.
8. On October 29, 2019, the IEP team conducted the annual IEP review and considered information from classroom-based assessments and response data from the evidence-based reading intervention. The student had identified needs in the areas of math calculation, reading comprehension, reading fluency and self management.
9. The team documented that the student showed a twelve (12) point increase in his reading score on a classroom-based assessment from the spring of 2019. At that time, the student was performing at the middle of the fourth (4<sup>th</sup>) grade in reading phonics, the beginning of the fourth (4<sup>th</sup>) grade in reading fluency, and the middle of the third (3<sup>rd</sup>) grade in reading comprehension, which is below the student's instructional level. The IEP team revised the annual IEP goals based on the data on the student's progress and present levels of performance.
10. Supports were added to the student's IEP to address the student's progress. These included extended time, monitoring of independent work, paraphrasing of questions and instruction, checks for understanding, repetition of directions, and altered/modified assignments. The clarification for altered/modified assignments indicates that the student "will be responsible for half the assigned spelling words, classwork, and homework with the selected questions to demonstrate mastery and comprehension of the topic or skill."
11. The review of an audiotape recording of the October 29, 2019 IEP meeting reflects that the school based members of the team discussed the provision of extended time. They explained that, at times, the extended time may be provided at the beginning of the assignment or project, due to the fact that assessments are given on certain days of the week and presentations may be a requirement at the conclusion of a project, therefore posing a difficulty for the student in terms of backlog. Instead of extended time, the school based members of the IEP team recommended an accommodated workload. However, the complainant expressed that she would rather the student complete all the work and that she would like the student to be provided with extended time for completion. The IEP was revised to include both accommodated workload and extended time to address the parent's concern about lengthy homework time and executive functioning deficits that caused the student to miss project deadlines. The audiotape further reflects that the math teacher had not known about the parent's homework concerns prior to the meeting.

12. Special education classroom instruction was increased to address the student's needs. The student was to receive classroom instruction outside of the general classroom for four and a half (4.5) hours per week, to be provided by the special educator or instructional assistant in a smaller group setting. Additionally, the student was to receive thirty minutes per day of special education classroom instruction weekly inside the general education classroom, to be provided by the special educator, general educator or instructional assistant.
13. At the October 29, 2019 IEP team meeting, Dyslexia was not documented on the IEP as a disability and the school staff explained that the data indicated that the student's education was primarily impacted by his OHI related to ADHD. There is documentation that the team based the identification of OHI due to ADHD on the IEE funded by PGCPS.

### **DISCUSSION/CONCLUSIONS:**

In this case, the complainant alleges that the supports required by the IEP are not producing results in reading and writing. Additionally, the complainant alleges that the IEP does not address the student's needs for extended time due to deficits in executive functioning, which is impacting his grades negatively.

#### **Reading and Writing Needs**

Based on the Findings of Facts # 1 - #13, the MSDE finds that the data does not support this allegation, in accordance with §§ 300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

#### **Extended Time**

Based on the Findings of Facts #6, #10, and #11, the MSDE finds that the IEP addresses the student's need for extended time, in accordance with §§ 300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

### **ALLEGATION #2: PROVISION OF SUPPORTS REQUIRED BY THE IEP**

#### **FINDINGS OF FACTS**

14. From September 16, 2019 to October 29, 2019, the supports required by the IEP include the following:
  - Redirection of student;
  - Small group;
  - Separate or alternate location;

- Frequent breaks;
- Reduce distractions to self and others;
- Calculation device and mathematics tools on calculation sections;
- Monitor test response;
- Extended time (1.5X);
- Access to graph paper;
- Evidence based interventions for math and reading;
- Monitor independent work;
- Paraphrase questions and instruction;
- Check for understanding;
- Repetition of directions;
- Break down assignments into smaller units;
- Strategies to initiate and sustain attention;
- Preferential seating;
- Occupational consultation with school staff to identify strategies for the student to participate in school routines; and
- Special education classroom instruction outside the general education setting (Two 45 minute sessions of special education four (4) days a week outside of the general education setting by the special educator to address the student's academic and behavioral goals.)

15. Since October 29, 2019 to the present, the supports required by the IEP include the following:

- Redirection of student;
- Small group;
- Separate location;
- Frequent breaks;
- Reduce distractions to self;
- Calculation device;
- Monitor test response;
- Extended time (1.5X);
- Use of evidence based intervention for math and reading;
- Monitor independent work;
- Paraphrase questions and instruction;
- Check for understanding;
- Repetition of directions;
- Altered/modified assignments (the student will be responsible for half of the assigned spelling words, classwork and homework with the selected questions to demonstrate mastery and comprehension of the topic or skill) ;
- Break down assignments into smaller units;
- Strategies to initiate and sustain attention;
- Preferential seating;

- Occupational therapist consult;
  - Special education classroom instruction outside of the general education setting (4.5 hours per week); and
  - Special education classroom instruction inside the general education setting (5.5 hours per week).
16. At the IEP team meeting on October 29, 2019, the complainant expressed concerns that the student was spending an inordinate amount of time to complete homework each night, and that she had to reteach him concepts at home. Based on those concerns, the school-based IEP team members recommended that the student should complete half of the assigned spelling and vocabulary words, and that on computer based assignments, the student's workload will be limited. On paper based assignments, the school staff would circle the specific requirements for the student. While the school-based members of the team recommended a reduced workload for the student, the complainant wanted the student to complete the same work as the other students but increase the amount of time required to complete the work. Both supports were included on the IEP developed at that meeting.
  17. There is documentation that the student's work is being modified to require him to produce less work than his peers.
  18. There is documentation that the student's work is being broken down into smaller segments.
  19. There is documentation that a required small group setting is being provided to the student.
  20. There is documentation that the student has been provided with the amount of special education instruction in the setting required by the IEP (2 - 45 minute blocks in a separate special education class 4 days per week from the start of the year until October 29, 2019, and that since that time, he has had 5 – 30 minute blocks in general education per week with a special education teacher and 3 – 1.5 hour blocks per week in the separate special education classroom, as required by the IEP).
  21. There is no documentation which demonstrates that the student is provided with strategies and supports to assist him with completing work. The complainant expressed a concern regarding monitoring and data collection to reflect progress related to reminders to the student when he becomes distracted. The school-based members of the team have documented that they do not track the specific number of reminders, but that when they see the distractibility signs, they provide reminders, to which the student responds appropriately.

22. There is no documentation that teachers are providing checks for understanding before beginning a task or assignment.
23. There is no documentation that teachers are monitoring independent work for the student, twice as often as the other students, to ensure that the student is on task and completing work.
24. There is documentation which demonstrates that the student is understanding and completing his work. Progress reports indicate that the student is making sufficient progress to meet his goals as of February 8, 2019. A grade report for the time period of September 3, 2019 to January 2, 2020 indicates that the student made progress in both reading and writing. The report reflects a term average of seventy-six per cent (76%) as of January 24, 2020. The student's grade report reflects an oral and written language term average of eighty two per cent (82%) as of January 24, 2020.
25. There is documentation to show that the student participated in two (2) diagnostic assessments related to research based interventions for both math and reading. While there is some documentation that the student has participated in a math intervention, there is no documentation that the student participated in a reading intervention.
26. The IEPs dated November 7, 2018, and October 29, 2019, require monthly consultations with an occupational therapist.
27. There is documentation to demonstrate that monthly consultations were provided during the time period of this investigation.

### **DISCUSSIONS/CONCLUSIONS:**

In this case, the complainant alleges that supports required by the IEP are not being implemented.

Based on the Findings of Facts #16 - #27, the MSDE finds that while there is documentation of the provision of some of the supports required by the IEP and the student is completing work and progressing through the general curriculum, there is no documentation that all of the supports required by the IEP are being provided, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

### **CORRECTIVE ACTIONS/TIMEFRAMES:**

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, the MSDE requires the public agency to provide



documentation of the completion of the corrective actions listed below.<sup>1</sup> This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the timeframes below may not be met, or if either party seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770.

The MSDE requires that the PGCPS provide documentation by the end of the 2019-2020 school year of the steps taken to ensure that the violation does not recur at Potomac High School.

### **Student Specific**

The MSDE requires that the PGCPS provide documentation that all of the IEP supports are being provided.

Further, The MSDE requires the PGCPS to provide documentation that the IEP team has determined whether the violation identified had a negative impact on the student's ability to benefit from his educational program, and if so, the amount of compensatory services needed to remedy the violation.

### **School-Based**

The MSDE requires the PGCPS to provide documentation of the steps taken at [REDACTED] School to ensure that each student receives the supports required by the IEP.

Documentation of completion of the corrective action taken is to be submitted to this office to:  
Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

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

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<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, the MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

<sup>2</sup> The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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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. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timeframes reported in this Letter of Findings.

The parent and the school system 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/dee

c: Monica Goldson  
Gwendolyn Mason  
Barbara Vandyke  
Jeffrey Krew  
Dori Wilson  
Anita Mandis  
Diane Eisenstadt  
Nancy Birenbaum