



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

July 17, 2018

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Dr. Susan Austin
Harford County Public Schools
Director of Special Education
102 South Hickory Avenue
Bel Air, Maryland 21014

RE: XXXXX
Reference: #18-161

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education/Early Intervention Services (DSE/EIS), 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 May 18, 2018, the MSDE received a complaint from Mr. XXXXXXXXXXXXXXX and Mrs. XXXXXXX, hereafter, “the complainants,” on behalf of their son, the above-referenced student. In that correspondence, the complainants alleged that the Harford County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegations listed below:

1. The HCPS has not ensured that the Individualized Education Program (IEP) addresses the student’s academic and speech/language needs since May 18, 2017,¹ and behavioral needs since the start of the 2017-2018 school year, in accordance with 34 CFR §300.324.

¹ While the complainants alleged that the allegations occurred beyond this period of time, they were informed, in writing, that only those allegations of violations that occurred within one (1) year can be addressed through a State complaint investigation (34 CFR §3009.153).

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2. The HCPS did not provide prior written notice of the IEP team's decision that the student does not require a co-teaching method of instruction, made on March 26, 2018, in accordance with 34 CFR §300.503.
3. The HCPS did not ensure that the student has been consistently provided with special education instruction to assist with achievement of the math goals and with accommodations and supplementary aids and services required by the IEP since the start of the 2017-2018 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 Autism under the IDEA, and has an IEP that requires the provision of special education instruction and related services. The student attends XXXXXXXXXXXXXXXXXXXX.

ALLEGATION #1

ADDRESSING ACADEMIC, SPEECH/LANGUAGE AND BEHAVIORAL NEEDS

FINDINGS OF FACTS:

September 14, 2017 IEP Team Meeting

1. On September 14, 2017, the IEP team considered the report of a psychological assessment that was conducted as part of a reevaluation and indicated the student's cognitive abilities fell within the "average" range, displaying a significant strength in his ability to hold and manipulate information in his working memory, in particular with his pictorial memory. The report also indicated that the student's word knowledge and reasoning, ability to complete visual puzzles, ability to use logic and reasoning to solve pictorial problems, as well as his ability to quickly and correctly process symbolic information all fell in the "average" range.
2. The psychological report also indicated that the student exhibited a significant weakness in his nonverbal quantitative reasoning. The report indicated that the student displays an elevated amount of behaviors associated with anxiety, somatization, attention problems, atypicality, and withdrawal. The report also documented his difficulties with executive functioning specifically with attention, regulating his emotional responses, cognitive and behavioral flexibility, and initiation of tasks or activities, organization of materials or space, and working memory.
3. The IEP team considered the language assessment report which indicated a profile of a student with "average" receptive and expressive language skills. The Recalling Sentences Subtest was an isolated weakness for the student and he had difficulty precisely recalling more complex sentence constructions and clauses. According to the

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Harford County Communication Rating Scale ² in the area of Language, the student demonstrated “no apparent language problems.” The language report indicated that all language areas tested were within 1.5 standard deviations from the mean as measured using the *Clinical Evaluation of Language Fundamentals -4* (CELF-4).

4. The educational assessment report in mathematics indicated “low” and “below average” skills when compared to same aged peers. The student’s math fluency and calculation skills are within the “low” range. The report indicated the student’s math problem solving skills were “average” when compared to same aged peers. The report further indicated that the student’s problem solving skills are on a fourth grade level and his math calculation skills are equivalent to the end of second grade level. *The Elementary Test of Problem Solving-Third Edition*, administered at Kennedy Krieger Institute, reflected that the student’s language-based thinking, reasoning and problem solving abilities were in the “below average” range with difficulty with sequencing, problem solving, and predicting subtests.
5. The educational assessment report in reading indicated the student evidenced a strength with vocabulary knowledge, age appropriate skills in the areas of reading and listening comprehension, word reading, decoding, and reading fluency. The report also indicated that the student is reading at a mid-fourth grade instructional level and he has difficulty retelling specific details in the text and answering implicit questions.
6. At the IEP team meeting the teachers reported that the student’s written language skills are age appropriate in the areas of spelling, manuscript legibility, sentence structure, grammar, vocabulary, usage, text organization, details, cohesion, and mechanics. The report of written language skills indicated that there was evidence of some letter omissions and that he formed plurals by adding apostrophe “s” to words. The report also indicated that he was mostly accurate with the application of capitalization and ending punctuation. The educational assessment indicated that the student’s written language skills are equivalent to the middle of fourth grade level.
7. The occupational therapy assessment results indicate that factors other than sensory processing are most likely influencing the student’s behavior since the teachers reported that the student’s auditory, visual, touch, and movement are “just like the majority” of the students. The report documents recommendations that include preferential seating, consideration of the noise level, reduce distracting auditory stimuli, cue the student prior to giving a direction, explore the use of fidgets, and continue with organizational support.
8. The results of the Statewide English Language Arts/Literacy Assessment Report indicated the student approached expectations. On the Mathematics Assessment Report, the student did not meet expectations and did not solve real-world problems, representing and solving problems with symbols, reasoning quantitatively, and strategically using

² The Harford County Communication Rating Scale is an informal tool used to synthesize information, facilitate the team’s discussion about strengths and needs and assist in the determination about whether a student’s language skills represents a mild, moderate, severe or no apparent problem.

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appropriate tools. On the *Progress to College and Career Report* the student scored as below basic.

9. On September 14, 2017, the IEP team reviewed the assessments as part of the student's reevaluation and based on the assessments, teachers and parent input, the IEP team determined the student's disability impacts in the areas of self-management skills and math calculation. The complainant expressed concerns about the student's pragmatic language, his echoing of television shows and his written summaries of answers to questions. The IEP team determined that the student's pragmatic language needs would be addressed by the special education teacher four (4) times per week when she addresses his self-management needs. Due to the constraints of time, the IEP team determined to reconvene another IEP team meeting to develop IEP goals to address the student's needs in the areas of mathematics calculations and a self-management goal.

October 12, 2017 IEP Team Meeting

10. The IEP team reconvened on October 12, 2017. The IEP team developed goals in mathematics calculation and self-management skills. The complainants expressed their disagreement with the decision that there are no needs in reading, writing and behavior. The IEP team addressed the complainants concerns about addressing behaviors by adding supplementary aids and supports to address the interfering attentional behaviors that may impact the areas identified by the complainants.
11. The IEP dated October 17, 2017 identifies the areas of need as math calculation, speech/language pragmatics, behavioral self-management and sensory processing.
12. The IEP stated that the student has difficulty with math calculation, specifically regrouping through subtraction and multiplication. The IEP also indicated that an area of weakness was with math fluency when recalling basic facts. The complainants expressed their concern about the student's decline in math and requested intensive math specialized instruction. The IEP team decided to meet again to address the complainants' requests.
13. The IEP indicated that the student's speech and language pragmatics revealed "mild to moderate" pragmatic language deficits. The student was able to participate in short conversations. The IEP also indicated that he has difficulty maintaining conversational topics and maintaining appropriate eye contact and will often display stereotyped speech. The IEP stated that his cognitive-linguistic deficits affect his pragmatic language and his ability to accurately problem-solve, predict, and make inferences.
14. In a report of a classroom observation the student's weaknesses were identified as needing direction, redirection, attention to task, initiation of work, and completion of work in a timely manner. The report stated that when he was off-task, the student would look around the room, pick at his fingers, or his face, fidget with materials around him, stare into space, and move his mouth to repeat previously heard phrases.

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15. In a report on the *Sensory Profile 2*, the student demonstrated more sensitivity to sounds and as a result indicated that the student miss auditory sensory input, struggle to complete work in a noisy setting, blanks out the teacher and may complete tasks inefficiently. The student displays sensory processing differences which affect his classroom performance.
16. The IEP required instructional supplementary aids, services, and supports that include accessing a peer buddy, using a visual checklist for multi-step directions, math notebook providing sample problems, providing a copy of the math book for home, providing frequent and immediate feedback, paraphrasing questions and instructions, providing repetition of directions, using proximity control, and cuing prior to stating the direction.
17. The IEP also required social/behavioral supports including providing advance preparation for schedule changes, communication between home and school, a positive incentive chart, positive behavior supports and strategies, reducing negative consequences, and teacher monitoring of peer interactions.
18. The IEP required the provision of physical/environmental supports including preferential seating and fidget items to increase the student's attention and focus on instruction.
19. The IEP also required consultative occupational therapy to provide support to staff to meet the student's needs in the area of sensory processing. The IEP required consultative speech/language therapy to the general education, special education teachers and parents to address the student's high level language skills, his carry-over skills, and strategies to use at home. There is a speech/language log of services which documents the provision of speech services through September 14, 2017, the date on it was determined that he no longer required speech/language services.
20. The IEP included a goal for the student to be able to fluently subtract and multiply multi-digit whole numbers involving the regrouping process using the standard algorithm on four (4) out of five (5) trials when provided strategies, base ten blocks and direct instruction. The IEP also included a goal for the student to be able to demonstrate on task behavior during whole group instruction and independent tasks on four (4) out of five (5) trials when provided with self-monitoring techniques, visual cues and no more than two (2) verbal prompts.
21. At the IEP team meeting held on October 12, 2017, the complainants requested that the student get placed in a co-taught class because of the need for extra teacher support. The IEP team rejected the request for the co-taught class based on the student's academic ability which is the reason he was placed in a higher functioning class for reading, science and social studies. The student is already in a co-taught math class.

October 27, 2017 IEP Team Meeting

22. The IEP team reconvened to address the complainants concerns about the student's math progress. While he is performing on grade level in mathematics problem solving, he is working on a second grade level in math calculations. The complainants reported that the

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student's father is spending an hour on math homework and re-teaching the student because he is unable to complete word problems and does not know his multiplication tables. The IEP team determined that the student would receive services inside and outside of the general education environment to receive explicit instruction with multiple practice opportunities and immediate feedback. The team also decided that the special education teacher will provide the student with math pull-out services, fifteen (15) minutes daily. and that he will receive math services inside general education to be able to generalize the skills with his peers.

23. The IEP team recommended that the student receive "visuals" for breaks during instruction, a visual checklist to assist him with executive functioning skills, color-coded binder system for organization, and proximity controls with non-verbal cueing.
24. The math calculation progress report, dated November 9, 2017, indicated that the student was making sufficient progress to meet the goal for math calculation, stating that, when. given direct instruction, the student was able to solve three (3)-digit subtraction problems. He was also able to solve two (2) digit by two (2)-digit multiplication problems involving regrouping on one out of two trials. The student was able to fluently solve the problems correctly, but it took him over a minute to solve each problem.
25. The self-management progress report, dated November 9, 2017, indicated that, given self-monitoring techniques, visual cues, and no more than two (2) verbal prompts, the student was able to be attentive for a ten (10) minute time frame on one (1) out of two (2) trials. He was able to initiate a task within one (1) minute. He was able to stay on task for five (5) to ten (10) minutes on two (2) out of two (2) two trials.
26. The math calculation progress report dated January 26, 2018 indicated that the student was making sufficient progress to meet the goal for math calculation. The student was assessed on his math goals five (5) times between November 28, 2017 and January 19, 2018 and was able to solve three (3)-digit by three (3)-digit subtraction problems involving regrouping on four (4) out of five (5) trials. He was also able to solve two (2)-digit by two (2)-digit multiplication problems involving regrouping on 3 out of 5 trials. He was able to fluently multiply (multiplication tables 0-9) basic facts on five (5) out of five (5) trials.

February 14, 2018 IEP Team Meeting

27. At the IEP team meeting held on February 14, 2018, teachers reported that the student continued making progress in reading toward grade level standards. On his *Scholastic Reading Inventory* and the *Fountas and Pinnell* reading inventory, the student showed achievement on grade level with his fifth grade level peers.
28. The teacher reported that in math class, out of the seven topics covered, the student scored at or above the class average on five (5) out of seven (7) assessments. She reported that the student completed his math assessments on line and received all of his accommodations. The student received a grade of "C" during the second quarter. The

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student struggled with memorizing his seven (7), eight (8) and nine (9) multiplication tables. The teacher reported that she is working on developing songs to assist the student in remembering the multiplication tables. He is provided with visual supports and uses a counting strategy to assist with the unknown multiplication table. A math book was provided as a guide for home study. The IEP team summary documented that the student was making progress on his math goals and objectives in math calculations. The complainants disagreed with the level of progress the student has shown in math and requested a Response to Intervention³ for math.

29. The complainants expressed concerns about the student not having friends and being “ostracized” with some classmates. The IEP was revised to reflect that teacher’s would provide check-ins with the student to ensure his wellbeing. The complainants also requested that the student not participate in the schoolwide behavior intervention system because it causes the student to become overly anxious, resulting in crying and missing school. The teacher reported on the student’s positive behavior check system that is used daily as positive reinforcement for good behavior. The complainants also expressed concern that the student’s homework agenda book is not completed, work is coming home incomplete and twenty-seven inquiries have gone unanswered. The IEP team discussed the lack of consistency with organization and determined that a new organizational system was needed.
30. The IEP team determined the student was eligible for Extended School Year (ESY) services. The complainants questioned whether the student showed signs of dyscalculia and needed to be in the co-taught math class. The complainants also expressed concerns about whether the student’s executive functioning skills needs were being met, they questioned his preferential seating and how much prompting the student required and whether this was manageable within a large class environment.

February 27, 2018 IEP Team Meeting

31. At the IEP team held on February 27, 2018, the IEP was revised to include the following supplementary, aids, and supports: checking for understanding, ask clarifying questions, and use of prompt hierarchy with fading to build independence.
32. The audio recording of the February 27, 2018 IEP team meeting reflects that the homework agenda book was not filled in, signed or checked consistently throughout the 2017-2018 school year, especially in math.

March 1, 2018 IEP Team Meeting

33. At the continuation of the February 27, 2018 IEP team meeting that was held on

³ Response to Intervention (RTI) is a multi-tier approach to the early identification and support of students with learning and behavior needs.

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March 1, 2018, the case manager shared the organization binder system and the prompt data collection system with the IEP team members. The supplementary aids and supports were also reviewed and were consistently being implemented at this time. In response to the complainants question about math support, the case manager shared that she models all of the problems for the student, then he puts them on his tablet for his reference when completing independent work. Visuals are provided to the student which are taped to his desk. The case manager discussed the data tracking and assessment system to show how the student is progressing on his IEP goals and objectives. The student has access to a highlighter on his tablet, visuals and a problem solving work mat to assist with math problem solving. The complainants requested that the strategies the student uses in Superflex⁴ be shared with them so that they may assist the student with scripting. The complainants expressed concern about the student's lack of math progress, stating that the student's father has to teach him math at home. The IEP team decided to assess the student using the *Comprehensive Math Abilities Test* to collect more data to see if the student was making progress.

March 26, 2018 IEP Team Meeting

34. At the IEP team meeting held on March 26, 2018, the IEP team reviewed the prompt label data charts, the prompt hierarchy and the binder system. The complainants requested that the student's classes be changed reflective of co-teaching for reading, writing, and social studies and science. This was rejected because the teachers reported that the student is happy, getting good grades, and the science and social studies classes are not co-taught. The principal stated that classroom placement was not an IEP team issue but an administrative decision.
35. The math calculation progress report dated April 6, 2018 indicated that the student was making sufficient progress to meet the goal for math calculation. The student was assessed on his math goals five (5) times between March 1, 2018 and March 28, 2018 and was able to solve three (3)-digit by three (3)-digit subtraction problems involving regrouping on five (5) out of five (5) trials. He was also able to solve two (2)-digit by two (2)-digit multiplication problems involving regrouping on 3 out of 5 trials. He was able to fluently multiply (multiplication tables 0-9) basic facts on five (5) out of five (5) trials. The self-management progress report, dated April 6, 2018, indicated that, given self-monitoring techniques, visual cues, and no more than two (2) verbal prompts, the student was able to be attentive for a ten (10) minute time frame on three (3) out of five (5) trials. He was able to initiate a task within one (1) minute on two (2) out of five (5) trials. He was able to stay on task for five (5) to ten (10) minutes on three (3) out of five (5) trials.

⁴ Superflex is a superhero social thinking curriculum designed to teach students with social and communication difficulties to develop an increased awareness of their own thinking and to learn strategies for self-regulation and social behaviors.

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June 11, 2018 IEP Team Meeting

36. At the IEP team meeting held on June 11, 2018, the IEP team reviewed the results of a sensory profile, a math. As a result, the IEP will be revised to include consultative occupational therapy. The report of the results of the *Comprehensive Math Abilities Test* indicated that the student's overall achievement was in the "average" range. The IEP team completed the Specific Learning Disability Team report and determined the student did not meet the criteria to identify him with dyscalculia.
37. The IEP team reviewed the results of the Speech/Language Assessment from XXXXX XXXXX and revised the IEP to include social skills training and consult speech/language skills for higher level language skills related to pragmatic language skills. The IEP team also determined that the student would receive his math special education services within a co-taught math class at the middle school level.

DISCUSSION/CONCLUSION:

Based on the Findings of Facts #1-#36, the MSDE finds that the HCPS has ensured that the IEP team has considered all of the evaluation data, including the results of private assessments and the parents' concerns, when identifying and addressing the student's needs, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #2

PROVISION OF PRIOR WRITTEN NOTICE

FINDINGS OF FACTS

38. On October 12, and 27, 2017, at the annual review, the IEP was revised to reflect that the student will receive six (6) twenty (20) minute sessions per month inside a co-taught general education classroom to address the mathematic calculation goal/objectives within the IEP. The basis for the determination was to be able to provide the student with the intensity of services needed for mathematics. The complainants expressed their concerns that the student did not have any friends in his classes.
39. While they recognize that the student has shown improvement in reading and writing, the complainants expressed their desire to have the student moved to another class. The complainants also expressed concerns that the student does not share what has taken place during the school day therefore he needs to be in a class with another student who will share with the complainants about the student's day.
40. At the IEP team meeting held on February 14, 2018, the complainants requested that the student receive reading and writing instruction within a co-taught class. There is documentation that it was explained by the principal that a long-term substitute was hired after the student's reading teacher left the system and that another teacher was added to the classroom to support the substitute. The principal stated that the student is in classes

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for reading and writing that are appropriate for his reading and writing achievement levels.

41. On March 26, 2018, an IEP team was held at which the complainant requested the student's writing, social studies and science classes get changed to provide him with more support than can be provided in classes by one teacher.
42. On March 26, 2018, the school staff informed the complainants that the class change was not an IEP team decision. The IEP team reviewed the student's progress and grades. The school staff stated that the student is happy in his current classes. The student's writing, social studies and science teacher stated that the student is understanding concepts and completing tasks, he is earning B's in all three classes. The IEP team summary stated that the student does not have writing services on his IEP and he is demonstrating progress in writing. Further, it stated that the social studies and science classes are not co-taught classes, therefore, the student would still be in a class with one teacher.
43. According to the teacher's schedule, the assignment to the reading class is not based upon the student's needs but to provide the substitute with curriculum support.

DISCUSSION/CONCLUSION:

In this case, the complainants allege that the school system failed to provide proper written notice regarding the district's refusal to incorporate the student in a co-taught reading class.

Based on the Findings of Facts #38-#43, the MSDE finds that there is documentation that the complainants were provided with the prior written notice as to the determination for not moving the student to a co-taught class, in accordance with 34 CFR §300.503. Therefore, the MSDE does not find that a violation has occurred with respect to this allegation.

ALLEGATION #3

PROVISION OF INSTRUCTION AND SUPPLEMENTARY AID AND SUPPORTS TO ASSIST WITH ACHIEVEMENT OF THE MATH GOAL

DISCUSSION/CONCLUSION:

Based on the Findings of Facts #16, #29, #31, and #32, (see above) the MSDE finds that there is no documentation that the student was provided consistently with the supplementary aids and supports as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds that a violation has occurred with respect to this of allegation.

Notwithstanding the violation, based on the Findings of Facts #33, # 35, #38, and #41, the MSDE finds that the student made sufficient progress to meet his goals and passed all of his classes, indicating no educational impact. Therefore, no student-based corrective action is required to remediate the violation.

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TIMELINE:

Please be advised that the complainant and the school system have the right to submit additional written documentation to this office, which must be received within fifteen (15) days of the date of this letter, if they disagree with the Findings of Facts or Conclusions reached in this Letter of Findings. The additional written documentation must not have been provided or otherwise available to this office during the complaint investigation and must be related to the issues identified and addressed in the Letter of Findings.

If additional information is provided, it will be reviewed and the MSDE will determine if a reconsideration of the Conclusions is necessary. Upon consideration of this additional documentation, this office may leave its Findings and Conclusions intact, set forth additional Findings and Conclusions, or enter new Findings and Conclusions. Pending the decision on a request for reconsideration, the school system must implement the Corrective Action consistent with the timeline requirement as reported in this Letter of Findings.

Questions regarding the Findings, Conclusions and Corrective Action contained in this letter should be addressed to this office in writing. The complainant 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 and Appropriate Public Education for the student, including issues subject to a State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or due process.

Sincerely,

Marcella E. Franczkowski, M.S.
Assistant State Superintendent
Division of Special Education/Early Intervention Services

MEF:sf

cc : Sean Bulson
Colleen Sasdelli
XXXXXXXXXXXXXX
Dori Wilson
Anita Mandis
Sharon Floyd