




Mohammed Choudhury
State Superintendent of Schools

July 30, 2021




Dr. Debra Brooks
Executive Director of Special Education
Baltimore City Public Schools
200 E. North Avenue, Room 204B
Baltimore, Maryland 21202

RE: 
Reference: #21-107

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 June 3, 2021, the MSDE received a complaint from  hereafter, “the complainant,” on behalf of his son, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the BCPS has not ensured that the Individualized Education Program (IEP) team has addressed the student’s lack of access to virtual learning since June 3, 2020, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is ten (10) years old, is identified as a student with an Intellectual Disability under the IDEA, and has an IEP that requires the provision of special education instruction and related services.

During the period of this investigation, the student attend the following schools:

- At the start of the 2019 - 2020 school year, the student attended [REDACTED] for in-person learning. In March 2020, due to the closure of school buildings as a result of the COVID-19 pandemic, the student participated in virtual learning until the end of the 2019 - 2020 school year; and
- During the 2020 - 2021 school year, the student attended [REDACTED] and participated in virtual learning.

FINDINGS OF FACTS:

1. The student's IEP in effect on June 3, 2020 identifies needs in the areas of reading comprehension and phonics, math calculator and problem solving, written expressive language, receptive and expressive language, and social and emotional functioning. The present levels of performance in these areas reflect that the student was functioning at the first grade level. The IEP requires specialized instruction, related services, and annual goals to assist the student with improving his skills in these areas.
2. The progress on the student's annual reading comprehension and phonics, math calculation and problem solving, and written expressive language goals, dated June 12, 2020, reflects that the student participated in virtual learning and that he was making sufficient progress to achieve the goals within one year.
3. The instructional log maintained by the student's case manager reflects that, from June 1, 2020 to June 19, 2021, the student "logged into the [virtual platform], collaborated every day, and participated" in reading and math instruction.
4. The progress on the student's annual social/emotional functioning goal, dated June 12, 2020, reflects that he "demonstrated consistent participation and cooperation working to meet social work goals."
5. The progress on the student's annual expressive language goal, dated June 12, 2020, reflects that "the student participated and demonstrated progress towards his goal."
6. The student's report card for the fourth quarter of the 2019 - 2020 school year reflects that he "passed" all of his classes and matriculated to the next grade level.


7. On October 22, 2020, the IEP team at [REDACTED] convened to review the student's progress and to revise the IEP, as appropriate. The complainant raised concern about the student's inability to be successful with virtual learning because of his inability to focus. However, the school staff reported that, although there are distractions in the learning center where the student accessed instruction, he did an "excellent" job when he is pulled to complete tasks one-on-one with staff. The general and special education teachers report that [the student] "does well and is participating in class, and that when he is focused, he can complete the task that he is being asked to do."
8. The IEP meeting summary, dated October 22, 2020, reflects that the team reviewed the student's educational record, progress reports, and teacher and parental input. Based on the data, the team updated the student's present levels of performances in his areas of need and indicated that he was functioning at a second grade level. The team also revised the student's annual goals and included additional supports, such as reading directions aloud and repeating them as needed to assist the student with completing assignments during virtual instruction.
9. The progress reported on the student's annual reading comprehension and phonics, expressive and receptive language, math calculation and problem solving, written language, and social and emotional functioning goals, dated January 27, 2021, reflect that the student was making sufficient progress to achieve the goals by October 21, 2021. The reports also reflect that, although the student is often "distracted at his remote learning site requiring constant repetition of verbal direction and reminders of his task objectives in order to complete his assigned work, he continues to make "slow inconsistent progress."
10. On March 22, 2021, the student returned to the [REDACTED] building for in-person instruction.

CONCLUSION:

In this case, the complainant alleges that, during the COVID-19 pandemic, the student was not able to be provided with a Free Appropriate Public Education (FAPE) during the time period of virtual instruction because he did not demonstrate sufficient progress.

Based on the Findings of Facts #1 - #10, the MSDE finds that the documentation reflects that the student was able to access virtual learning, and while progress on the IEP goals has been slow, he has improved his grade level performance, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

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


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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 timelines reported in this Letter of Findings.

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 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/Special Education Services

MEF:ac

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