




Mohammed Choudhury
State Superintendent of Schools

October 15, 2021




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

RE: 
Reference: #22-014

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.

ALLEGATIONS:

On August 16, 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 following allegations:

1. The BCPS has not ensured that the Individualized Education Program (IEP) team has addressed the student’s lack of access to virtual learning since the start of the 2020 - 2021 school year, in accordance with 34 CFR §300.324.
2. The BCPS did not ensure that the reports of the student’s progress towards achievement of the annual IEP goals during the 2020 - 2021 school year were consistent with the data, in accordance with 34 §§CFR 300.101 and .323.

BACKGROUND:

The student is twelve (12) years old and is identified as a student with Autism, under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's class schedule for the 2020 - 2021 school year reflects that he was to be provided with instruction, virtually, throughout the school day. The documentation also reflects that Zoom¹ meeting links were included on the student's class schedule to allow him to access classes for instruction.
2. The IEP identifies the student's needs in the areas of reading phonics, reading comprehension, and math calculation. The IEP requires that that student be provided with specialized instruction and has annual goals to assist with improving his skills in these areas.
3. The student's annual reading phonics goal states that, "given multiple exposure and practice of regular and irregular words [the student] will improve his reading phonics by applying decoding strategies as measured by formal and informal assessments with 70% accuracy."
4. The student's annual reading comprehension goal states that, "given graphic organizers, chunking of text and using read-aloud, [the student] will read closely to determine what the text says and cite details from the text to support answers with 70% accuracy as measured by formal and informal assessments."
5. The student's annual math calculation goal states that, "given teacher-directed and computer-based math intervention and instruction to a variety of math strategies, [the student] will improve his overall calculation skills with 70% accuracy as measured by formal and informal assessments."
6. On September 29, 2020, the IEP team convened for an annual review of the student's IEP. The IEP meeting summary reflects that the team discussed the student's progress with the use of virtual instruction. The complainant expressed concern about the student's access to virtual instruction, and reported that the student has difficulties with remaining focused, completing his work while at home, and that he was unsure of what classwork the student needed to complete. The student's general education teacher reported that the student is "often distracted during virtual learning, has difficulty remaining focused, and does not use the Google write tools he was taught to use."
7. In response to the complainant's concerns, the assistive technology liaison indicated that she could join the student during learning sessions to ensure that he is accessing the tools

¹ A cloud-based video communications app for virtual video and audio conferencing, webinars, live chats, screen sharing, and other collaborative capabilities (www.zoom.us).

to support his learning. The school staff recommended that the complainant type his concerns in the chat box to allow the school staff to respond and provide support to the student, as appropriate. The school staff also indicated that the complainant could allow the student to utilize a learning center where he could access instruction, virtually, with limited disruption. However, the complainant indicated that he was not interested in the student attending another location for instruction other than his school.

8. The student's Zoom attendance logs dated between September 2020 and March 2021, reflect that the student logged into class to access instruction on a daily basis. However, there are also communication logs between the school staff and the complainant, reflecting that the internet service at the student's home was occasionally unavailable, or that the student had difficulty logging into his classes due to those outages.
9. The progress reported on the student's annual reading phonics, reading comprehension, and math calculation goals dated November 11, 2020 and January 27, 2021, reflect that the student was making sufficient progress to achieve the goals.
10. The progress reported on the student's annual reading phonics, reading comprehension, and math calculation goals dated February 5, 2021, reflects that the student was not making sufficient progress towards achievement of his goals.
11. On February 5, 2021, the IEP team convened for a review of the student's IEP and to address the lack of progress on his annual goals. The complainant expressed concern about the student's inability to focus at home, but that "despite being virtual, [the student] appears to be doing well." The school staff reported that the student was "consistently attending virtual class and had adjusted well with his routine and schedule." The IEP team also reviewed previously completed formal and informal assessment data, observations, reading and math data, student work samples, and teacher and parental input. Based on this review, the team updated the student's present levels of performance in his identified areas of need, revised the IEP to include additional supplementary aids, revised the annual goals, and developed an additional reading comprehension goal to assist the student with improving his skills in this area, consistent with the data.
12. There is documentation that on March 8, 2021, the student returned to in-person learning in the school building.
13. The progress reported on the student's reading phonics, comprehension, and math calculation goals dated April 12, 2021 and June 15, 2021, reflect that the student was making sufficient progress to achieve his goals.
14. There is documentation that during the 2020 - 2021 school year, the school staff conducted progress monitoring in the student's identified areas of need for reading phonics, reading comprehension, and math calculation.

CONCLUSIONS:

Allegation #1: Access to Virtual Instruction

Based on the Findings of Facts #1, #6 - #8, #11, and #12, the MSDE finds that the documentation does not support the allegation that the IEP team did not address the student's lack of access to virtual learning since the start of the 2020 - 2021 school year, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #2: Progress Reports Consistent with the Data

Based on the Findings of Facts #1 - #14, the MSDE finds that the reports of the student's progress towards achievement of the annual IEP goals during the 2020 - 2021 school year were consistent with the data, in accordance with 34 §§CFR 300.101 and .323. Therefore, this office does not find that a violation occurred with respect to the allegation.

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/Special Education Services

MEF:ac

c: Sonja Santelises Brain Morrison
Christa McGonigal Albert Chichester