

**DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL CHILDREN RESOURCES**

**FINAL REPORT
ADMINISTRATIVE COMPLAINT RESOLUTION**

DE AC 16-11 (June 7, 2016)

On April 8, 2016, Parent filed a complaint on behalf of Student with the Delaware Department of Education (“DOE”).¹ The complaint alleges that Milford High School (“MHS”) violated the Individuals with Disabilities Education Act (“IDEA”) with respect to the Student. The complaint has been investigated as required by federal regulations at 34 C.F.R. §§ 300.151 to 300.153, and according to the DOE’s regulations at 14 DE Admin Code §§ 923.51.0 to 53.0. The investigation included a review of Student’s educational records, documents provided by Parent and documents provided by staff at MHS, along with interviews of Parent, Principal at MHS, and staff in the Milford School District (“MSD”).

COMPLAINT ALLEGATION

The complaint alleges that MHS staff violated Student’s rights by: (1) failing to implement agreed upon terms of the IEP (dated March 11, 2016); (2) failing to send home bi-weekly updates with grades below 70% and missing assignments; and (3) failing to respond to numerous messages by Parent requesting updates on Student’s performance.

FINDINGS OF FACT

1. Student is in X grade and receives special education services as a student with a Learning Disability. Student has been receiving special education services in the regular setting (“Placement A”) at MHS during the 2015-2016 school year.

2. The annual IEP, dated, March 11, 2016 identifies Student with a Learning Disability presently receiving instruction in regular education classes 80% of the day (Team Approach to Mastery “TAM” setting).

3. The meeting minutes from the Individualized Education Program (IEP) Meeting held on March 11, 2016 document Marking Period 2 grades as follows: Algebra I X%; World History: X%; Spanish I X%; English X%; Physical Science X%; Physical Education X%; Support Skills Pass.

¹ The Final Report identifies some people and places generically, to protect personally identifiable information about the student from unauthorized disclosure. An index of names is attached for the benefit of the individuals and agencies involved in the investigation. The index must be removed before the Final Report is released as a public record.

4. The IEP, dated March 11, 2016, indicates that in order for Student to be successful in the general education curriculum, Student requires graphic organizers, modified tests/quizzes/assignments, modified grading, access to grade level and non-grade level reading materials, small group work/testing, and refocusing attention. Student also requires the use of a calculator, extra time to complete tasks, and frequent teacher check-ins to monitor for successful progress. Also at times, Student may need tasks to be modified in both length and overall complexity. Student requires revision opportunities, additional time, prewrite opportunities, the use of a dictionary, and modification of longer writing assignments that may include using a word processor.

5. The Principal at MHS confirmed Student is receiving all supports and services outlined in Student's IEP, with the exception of the supports in Paragraph 5.

6. Student's IEP indicates, Staff will send bi-weekly grade reports home. On this report teachers will give explanation for grades 70% and below for the purpose of the parent assisting at home. If there are missing assignments, copies of the assignments and/or project description will be attached.

7. Parent agreed to the program and placement indicated by Parent's signature on the IEP and Prior Written Notice on March 11, 2016.

8. Student Detail Reports were provided to Parent in each content area. These reports provide updates in the following categories: date due, date assigned, assignment, category, score, total points, weight, weighted score, weighted total points, average score, and percentage. The student average is provided at the end of the report for classwork, homework, and major grades. The results for Student for January 2016 - April 2016 were:

| | <i>Assessments</i> | <i>Classwork</i> | <i>Projects</i> | <i>Quiz</i> | <i>Production</i> | <i>Homework</i> | <i>Labs</i> | <i>Tests</i> | <i>Major Grade</i> | <i>Minor Grade</i> | <i>Overall Average</i> |
|---|--------------------|------------------|-----------------|-------------|-------------------|-----------------|-------------|--------------|--------------------|--------------------|------------------------|
| <i>English</i> | | X% | | | | X% | | | X | | X% |
| <i>Algebra</i> | | | | | | | | | X% | X | X% |
| <i>English Response to Intervention</i> | | | | | | | | | X% | X% | X% |
| <i>Math Response to Intervention</i> | X% | X% | | | X% | | | | | | X% |
| <i>Physical Science</i> | | X% | | | | X% | X% | X% | | | X% |
| <i>World History</i> | | | | | | | | | X% | X% | X% |
| <i>Spanish I</i> | | X% | X% | X% | | | | X% | | | X% |

9. The Student Detail Report indicated X major/minor grades in *English Response to Intervention* (RTI) below 70% with no detailed assignment attached between February 11, 2016 – March 18, 2016.

10. The Student Detail Report indicated X classwork grades below 70% in *Physical Science* with no detailed assignment attached between January 29, 2016 – March 11, 2016.

11. The Student Detail Report indicated X classwork grade below 70% in *Spanish* with no detailed assignment attached on February 23, 2016.

12. The Student Detail Report provided to Parent by the Spanish Teacher on March 23, 2016 noted an incorrect phone number for Parent. The Science Teacher also provided a written note attached to the March 23, 2016 Student Detail Report stating that Parent's phone number in E-school was incorrect and requested an update. Several attempts were made by the content teachers to communicate with Parent. Spanish Teacher, Science Teacher and English RTI Teacher left several phone messages for Parent. It was discovered at the April 15, 2016 IEP meeting, that the phone number listed for Parent that staff had been using was incorrect.

13. An IEP meeting (requested by Parent) was held on April 15, 2016 to discuss Parent's concerns regarding the lack of bi-weekly reports identifying grades below 70% and missing assignments in English RTI, Spanish, and Physical Science. Parent waived the 10 school day notice of meeting and received a copy of the Prior Written Notice along with a copy of the Procedural Safeguards.

14. Parent reported not receiving updates from the RTI English Teacher or the TAM Physical Science Teacher. Parent stated that a phone contact or note home with Student was acceptable.

15. Parent's home phone number was changed in December 2015 and Parent alleges that the change was shared with another MSD building. Parent thought that this change would be shared throughout the MSD. During the April 15, 2016 meeting, Parent shared the updated phone number.

16. The Spanish Teacher, Science Teacher and English RTI Teacher stated that they would be sure to provide the missing updates to Parent on a bi-weekly basis from this point forward and apologized for the break in communication.

17. Student is presently (3rd Marking period) on the Honor Roll. Student has earned the following grades:

| <i>Class</i> | <i>Grade</i> |
|----------------------------------|--------------|
| English | X |
| English Response to Intervention | X |
| Math Response to Intervention | X |
| Physical Science | X |
| World History | X |
| Spanish I | X |

18. The IEP Team agreed to reconvene on May 13, 2016 to review home-school communication.

CONCLUSIONS

This investigation is limited to determining if the staff at MHS failed to comply with requirements of the IDEA, and corresponding Delaware law resulting in a denial of a free and appropriate public education ("FAPE") to Student.

Parent's complaint is that staff assigned to teach Spanish, Physical Science, and English RTI failed to provide bi-weekly updates with attached missing assignments and project descriptions as stated in the IEP. Although an incorrect phone number was on record for Parent, the teachers should have provided the bi-weekly updates with attached missing assignments and projects descriptions via another means of communication. **Therefore, I find a violation of IDEA and corresponding state regulations.**

CORRECTIVE ACTIONS

The DOE is required to ensure corrective actions are taken when violations of the requirements are determined through the complaint investigation process. *See* 14 DE Admin. Code § 923.51.3.3. In this case, a violation of the IDEA was identified. Therefore,

- A. By September 9, 2016, the Milford School District will hold an IEP meeting with Parent to review the IEP and ensure that all of Student's needs are addressed through goals, supports, services, and modifications. In addition, the IEP team members should discuss how they will communicate with each other, what information regarding student progress will be communicated, and when this information will be communicated to ensure Parent remains abreast of Student's current performance. A copy of the IEP, Prior Written Notice, and meeting minutes should be submitted to the Director of Exceptional Children Resources for the Department of Education by September 16, 2016.
- B. On or before August 1, 2016 the Milford School District will submit to the Director of Exceptional Children Resources for the Department of Education a plan for in service training to staff to ensure compliance with the regulations and provisions of the IEP as identified in this decision. The plan shall address all components of the IEP.
- C. On or before September 30, 2016 the Milford District will provide in service training to staff to ensure knowledge of and compliance with the regulations and provisions of all IEP components.
- D. On or before October 15, 2016 the Milford School District will provide documentation to the Director of Exceptional Children Resources for the Department of Education (including PowerPoint presentation, agenda, sign in sheets etc.) to verify that the Milford School District provided the inservice training.

By: _____
Assigned Investigator