

**DELAWARE DEPARTMENT OF EDUCATION  
EXCEPTIONAL CHILDREN RESOURCES**

**FINAL REPORT  
ADMINISTRATIVE COMPLAINT RESOLUTION**

**DE AC 16-10 (April 18, 2016)**

On February 19, 2016, Parent filed a complaint with the Delaware Department of Education (“DDOE”). The complaint alleges that Early College High School (“ECHS”) violated state and federal regulations concerning the provision of a free, appropriate public education (“FAPE”) to 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 Department of Education’s regulations at 14 DE Admin Code §§ 923.51.0 to 53.0. The investigation included a review of Student’s educational records, staff correspondence, and documentation provided by Parent and ECHS. Interviews were conducted with Parent and ECHS staff.

**COMPLAINT ALLEGATIONS**

The complaint alleges that ECHS: (a) failed to ensure parent participation at Student’s IEP meeting; (b) failed to provide accommodations and supports listed in Student’s IEP; (c) failed to provide Response to Intervention (RtI) services to Student; and (d) failed to measure and report Student’s progress.

**FINDINGS OF FACT**

1. Student is 16 years old, attends 10<sup>th</sup> grade, and has been identified as a student with a disability under the classification of “Learning Disability” as defined in 14 DE Admin Code § 925.6.11. Student receives special education services at Early College High School pursuant to the Individuals with Disabilities Education Act (“IDEA”) and 14 Del. C. § 3101 *et seq.*
2. Student’s current Individualized Education Program (IEP) was developed at an IEP meeting held on October 28, 2015. Student’s IEP is dated October 29, 2015 through October 28, 2016.
3. On September 30, 2015, Special Education Coordinator sent Parents and Student an E-mail advising them Student’s annual IEP meeting was scheduled for October 13, 2015. Special Education Coordinator also attached a Notice of Meeting, as well as a parent questionnaire form for each Parent and Student. The Special Education Coordinator requested Parents to respond to the invitation, and confirm whether they would attend on October 13, 2015.

4. The Notice of Meeting included the required content describing the purpose of the meeting to develop, review, and/or revise Student's IEP. As required, the Notice of Meeting also informed the parents who would be in attendance at the meeting, specifically, Student, the General Education Teacher, Special Education Teacher, Administrator/Designee, and the Career Technical Education Teacher.
5. Parents did not respond to Special Education Coordinator's September 30, 2015 E-mail on the same day.
6. On October 1, 2015, ECHS sent Parents and Student a second Notice of Meeting, this time, by U.S. Mail with the same parent questionnaire form provided in the September 30, 2015 E-mail. The Special Education Coordinator reported that no response was received from the Parents.
7. On October 2, 2015, Special Education Coordinator sent Parents and Student another E-mail with a third Notice of Meeting and parent questionnaire form. The Special Education Coordinator received an E-mail response from Parent indicating the Notice of Meeting was received.
8. On October 13, 2015, Parents did not attend the IEP meeting, and accordingly, ECHS did not proceed with the meeting.
9. On October 16, 2015, Special Education Coordinator sent an E-mail to Parent requesting to reschedule the meeting and provided two proposed dates. Parent responded by E-mail and chose October 28, 2015 at 8:30 a.m. as the IEP meeting date.
10. ECHS proceeded with an IEP meeting on October 28, 2015 at 8:30 a.m. although the Parents were not in attendance. Attendees included the Administrator, General Education Teacher, Special Education Teacher, and Career Education Teacher. In an interview with the Special Education Coordinator, he/she indicated that they proceeded with the meeting although the Parents were not in attendance because the IEP would have expired.
11. On October 28, 2015 at 9:19 a.m., Parent sent Special Education Coordinator an E-mail apologizing for missing the IEP meeting, and requesting it be rescheduled.
12. On October 28, 2015, Special Education Coordinator acknowledged receipt of Parent's E-mail and responded by sending Student's proposed IEP home for Parent to review.
13. On November 30, 2015, Parent sent another E-mail to Special Education Coordinator requesting a meeting to discuss Student's progress, and also asked for the availability of the Special Education Coordinator, and a copy of Student's report card.
14. On November 30, 2015, Special Education Coordinator responded via E-mail indicating that the report card was available electronically through Home Access. Special Education Coordinator also provided Parent with his/her availability.

15. There has been no further correspondence since November 30, 2015. Parent reported Parent was waiting for Special Education Coordinator to schedule an IEP meeting and when this did not happen, Parent filed the administrative complaint.
16. In the complaint, Parent alleged the IEP was not being followed. During an interview, Parent stated he/she spoke with the English Teacher who reported being unaware Student had an IEP.
17. During an interview with the English Teacher, English Teacher confirmed there was a telephone conversation with the Parent but stated the comment made about being unaware of Student's IEP was referring to the complaint process that Parents were pursuing. English Teacher stated that he/she knew Student had an IEP.
18. Staff at ECHS utilize an *IEP at a Glance* sheet which lists student testing and classroom accommodations in a summary format. This sheet is disseminated to teachers upon completion of the IEP. The *IEP at a Glance* sheet for Student was provided to teachers after the October 28, 2015 IEP meeting.
19. In the complaint, Parent alleged Student is failing two classes or more which is in violation of RtI procedures.
20. The Principal stated Student is scheduled for an RtI class 90 minutes per day which began on October 26, 2015. A review of Student's schedule and the RtI teacher confirmed this fact.
21. In the complaint, Parent alleged the IEP progress reports for the 2014-2015 school year were not sent home. During the interview, Parent clarified that Parent received an IEP progress report for the first time in October 2015 along with the second marking period report card.
22. The Special Education Coordinator interview confirmed that the IEP progress reports were not provided to Parent in October and December 2015.

## **CONCLUSIONS**

### **A. Parent Participation at IEP Team Meeting**

The IDEA and its implementing regulations set forth requirements for conducting IEP team meetings to ensure parent participation. Specifically:

(1) Schools must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or otherwise afforded the opportunity to participate. Schools must also provide written notice to parents at least ten (10) school days prior to any IEP team meeting (unless mutually agreed otherwise) to ensure the parents will have an opportunity to attend. The written notice provided to parents must include the purpose, time, and location of the meeting, and a list of those who will be in attendance, while also informing

the parents other individuals may participate on the IEP team who have knowledge or special expertise about the child. *See*, 34 C.F.R. § 300.322; 14 DE Admin Code § 925.22.0.

(2) Schools must also schedule the meeting with parents at a mutually agreed upon time and place. *See*, 34 C.F.R. § 300.322; 14 DE Admin Code § 925.22.0.

An IEP meeting may be held without a parent in attendance, but only if the school is unable to convince the parents they should attend. The school must keep a record of attempts to arrange a mutually agreed upon date and time, such as:

- (a) Detailed records of telephone calls made or attempted, and the results of those calls;
- (b) Copies of correspondence sent to the parents and any responses received; and
- (c) Detailed records of visits made to the parent's home or place of employment, and the results of those visits.

*See*, 34 C.F.R. § 300.322(d); 14 DE Admin Code § 925.22.4.

In this case, Special Education Coordinator originally scheduled Student's IEP meeting for October 13, 2015, and notified Parents by sending them an E-mail on September 30, 2015 with a Notice of Meeting. Special Education Coordinator later mailed a second Notice of Meeting to Parents on October 1, 2015. On October 2, 2015, Special Education Coordinator sent a third Notice of Meeting to Parents by E-mail. However, Parents were not provided with written notice of the October 13<sup>th</sup> meeting ten (10) school days in advance of the meeting. ECHS did not receive confirmation from Parents as to whether October 13, 2015 was a mutually agreed upon date and time. When Parents did not appear for the IEP meeting on October 13, 2015, ECHS did not proceed with the meeting.

Special Education Coordinator sent an E-mail to Parent on October 16, 2015 requesting to reschedule the meeting, and provided two proposed dates. Parent responded by E-mail and chose October 28, 2015 at 8:30 a.m. as the mutually agreed upon meeting date and time. However, Parent was not provided with the required written notice of the October 28<sup>th</sup> meeting ten (10) school days in advance of the meeting. Nor did Parent waive the right to written notice of the meeting ten (10) school days in advance of the meeting. **For the reasons stated, I find a procedural violation of the IDEA and corresponding state and federal regulations regarding the provision of written notice to parents ten (10) school days prior to an IEP meeting.**

The IEP meeting was held on October 28, 2015 at 8:30 a.m., but Parent did not attend. Parent was unable to attend due to unforeseen circumstances. Parent sent an E-mail to Special Education Coordinator at 9:19 a.m. apologizing for missing the meeting and requesting the meeting be rescheduled. A meeting was not scheduled. The proposed IEP was sent home to Parent for review. On November 30, 2015, Parent again requested that the Special Education Coordinator schedule a meeting. Special Education Coordinator did not. It was evident Parent wanted to attend Student's IEP meeting, and ECHS should have scheduled a meeting to ensure

parent participation. **For the reasons stated, I find a procedural violation of IDEA and corresponding state and federal regulations regarding the scheduling of IEP team meetings on mutually agreed upon dates and times with the required written notice to ensure parent participation.**

**B. Access to IEP**

State and federal regulations require a student's IEP be accessible to teachers and others responsible for its implementation. *See*, 34 C.F.R. § 300.323(d)(1); 14 Admin Code § 925.23.3. Staff must also be informed of their specific responsibilities related to implementing a student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP. ECHS established an *IEP at a Glance* form and procedures for disseminating IEP information to staff. ECHS complied with this procedure regarding Student. **For the reasons stated, I have not identified a violation of IDEA and corresponding state and federal regulations regarding informing staff of their responsibilities related to implementing IEPs.**

**C. Response to Intervention Procedures**

State regulations require charter schools and school districts to establish and implement procedures to determine whether a child responds to scientific, research-based interventions for reading and mathematics. *See*, 14 DE Admin Code § 925.12. Parent contends ECHS did not provide RtI services to Student. However, evidence gathered does not support this claim. **For the reasons stated, I have not identified a violation of state regulations regarding the provision of RtI services to Student.**

**D. Periodic Reports on Student's Progress**

State and federal regulations require a student's IEP to contain a description of how the student's progress toward meeting the annual IEP goals will be measured and when the periodic reports will be provided. *See*, 14 DE Admin Code § 925.20.1.3; 34 C.F.R. § 300.320(a)(3). In this case, ECHS acknowledged Student's IEP progress reports were not provided for October and December 2015. **For the reasons stated, I find a procedural violation of IDEA and corresponding state and federal regulations regarding measuring and reporting student progress on meeting annual IEP goals.**

### **CORRECTIVE ACTION**

To address the regulatory violations noted in this Decision, the DDOE directs ECHS to take the following corrective actions:

- (a) Schedule an IEP meeting within thirty (30) days of the date of this Letter of Findings to review Student's IEP and progress, and ensure Parents are afforded the opportunity to participate and provide input to Student's IEP. Provide the Director of Exceptional Children Resources with evidence that attempts were made to schedule a meeting at a mutually agreeable time and that parents were given 10

school days Notice of Meeting. The meeting should meet all the requirements under 34 C.F.R. §§ 300.320 to 324 and 14 DE Admin Code §§ 925.20 to 24.0.

(b) By June 15, 2016, ECHS shall provide a detailed corrective action plan with completion dates to the Director of Exceptional Children Resources addressing the regulatory violations identified in this decision. The plan shall set forth specific procedures to:

- (1) Provide in service training to staff to ensure compliance with the regulations identified in this decision as follows:
  - 10 School day Notice of Meeting
  - IEP progress reporting

By: /s/ \_\_\_\_\_  
Assigned Investigator