

**DELAWARE DEPARTMENT OF EDUCATION
EXCEPTIONAL CHILDREN AND EARLY CHILDHOOD EDUCATION
BRANCH**

**FINAL REPORT
ADMINISTRATIVE COMPLAINT RESOLUTION**

**DE AC 09-01
(September 11, 2008)**

On July 11, 2008, Parent filed a complaint with the Delaware Department of Education on behalf of her daughter (“Student”).¹ The complaint alleges that the Moyer Academy Charter School (“School”) violated state and federal laws relating to children with disabilities. Specifically, Parent alleges that the IEP was not implemented appropriately during the 2007-2008 school year and in summer school.

The complaint has been investigated pursuant to federal regulations at 34 C.F.R. §§ 300.151 to 300.153 and the Department of Education’s regulations and procedures at 14 DE Admin Code §§ 923.51 to 923.54. Specifically, the investigation included interviews with the Special Education staff of the school and interviews with Parent. The investigation also included a review of Student’s educational records, including her individualized education program (“IEP”), evaluation and assessment reports, meeting minutes, incident reports, progress reports, and other administrative documents provided by the District.

FINDINGS OF FACT

1. Student attends a Delaware Charter School (“School”) and is eligible for special education and related services as a student with a learning disability.
2. Student transferred into School in August 2007 with an IEP from Sarasota County, Florida.
3. On August 27, 2007, the IEP team convened and agreed to implement the IEP from Florida with no modifications. Proper notice of the IEP team meeting was sent to Parent and all required IEP team members were present.
4. On January 22, 2008, the IEP team convened to develop a new IEP. Proper notice of the IEP team meeting was sent to Parent and all required IEP team members were present.
5. Needs identified on the IEP included reading comprehension, math computation, task completion, and assignment completion.
6. Accommodations, modifications, supports and services included extra time, extra support, check for understanding, audio recordings of extended readings as

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.

- needed, enlarging print of handouts as needed, use of calculator, rereading of passages/instructions, and multiple assessment sessions as needed.
7. The IEP indicates that Student was to participate in regular testing conditions with no accommodations. However, forms were included with the IEP which indicated that Student was to receive multiple accommodations for testing. Such accommodations were identified as completing the test over multiple sessions, reading the reading test or text based writing.
 8. Parent attended the January 22, 2008 IEP meeting, but did not sign in agreement with the program outlined in the IEP. The School implemented the IEP for the remainder of the school year.
 9. Parent obtained an evaluation report done by the Division for the Visually Impaired (“DVI”) dated February 29, 2008. According to the School, Parent did not provide the evaluation report to the School.
 10. The DVI evaluation also referenced a report obtained by Parent from an optometrist who evaluated Student and recommended vision therapy be provided through his office.
 11. The DVI evaluation concluded that Student’s distance vision, near vision, contrast sensitivity, visual efficiency skills, and binocular vision were within the range of normal functioning and should have “little or no direct impact on her educational performance.”
 12. Parent states that Student has always had vision problems, and recommendations “via a telephone conversation included books on tape, teaching technologies and extra assistance in the classroom.”
 13. Parent further states that Student had minimal one-on-one instructional support, Student was not being read to, a lap top was not provided, and Student did not receive additional help.
 14. School staff state that Student was provided the accommodation of reading the reading test to her and Student did receive large print testing materials.
 15. School staff state that all services and accommodations in the IEP were provided to Student in the classroom.
 16. Student did use a tape recorder in the classroom provided by Parent, however, Student did not consistently bring the tape recorder to School.
 17. Student scored “1’s” in English Language Arts and Math in the Delaware Student Testing Program in 2008.
 18. Student’s National Percentile Rank on the Florida Comprehensive Assessment Test from the spring of 2007 in Reading Comprehension was 24% meaning that Student performed equal to or higher than 24% of students nationally.
 19. Student’s National Percentile Rank on the Florida Comprehensive Assessment Test in Mathematics Problem Solving was 55%.

CONCLUSIONS

Given Student’s identified needs, accommodations on the IEP such as extra time, extra support, check for understanding, re-reading of passages and instructions, etc. are reasonable. Parent states that certain services and supports were not provided by the School, such as a laptop recommended through a parentally obtained evaluation by an optometrist. However, the School has no record of Parent ever providing the DVI evaluation to the School. In addition, most of the services and supports mentioned by Parent are not identified on Student’s IEP as educationally necessary. Further, the DVI evaluation concluded that

Student's distance vision, near vision, contrast sensitivity, visual efficiency skills, and binocular vision were within the range of normal functioning and should have "little or no direct impact on her educational performance."

Parent alleges the School's failure to provide accommodations caused Student to perform poorly on the DSTP and required her to attend summer school. School staff report that all IEP required services were provided to Student, including appropriate accommodations during the DSTP. In addition, Student's performance on the DSTP was commensurate with her past performance on the Florida Comprehensive Assessment Test.

In sum, there is no substantive evidence to support that School was not providing a free and appropriate public education and no violation of federal or state special education regulations is found.

** Reports to the Department of Education should be sent to the Director of the Exceptional Children and Early Childhood Education Group.*

By: _____
Martha L. Toomey, Director
Exceptional Children and Early Childhood Education
Curriculum and Instructional Improvement Branch

