



January 25, 2024

Angela Chapman, Superintendent
Columbus City Schools
270 E State St
Columbus, OH 43215

RE: Complaint #CP 0229-2023, Findings Letter

Dear Superintendent Chapman:

After reviewing the information regarding the complaint concerning [REDACTED] (Student), the Office for Exceptional Children (OEC) has determined the following:

- The Education Program Specialist (EPS) assigned to the complaint reviewed and considered all documentation and information submitted by both parties.
- The EPS interviewed the Parent on December 6, 2023.
- The EPS interviewed the Director of Special Education (Director) on December 8, 2023.
- The Student is in tenth grade and is identified as a student with a disability in the category of Other Health Impairment (OHI).

Issue 1:

The Parent alleges, from March 2023 to the date of the complaint, the District did not implement the Student's individualized education program (IEP) and safety plan. Specifically, District staff did not provide the Student's accommodations and behavior supports which include allowing the Student to leave class to see the counselor and accessing the restroom when requested. This is an alleged violation of 34 C.F.R. 300.323 [When IEPs must be in effect].

Facts:

The following facts were determined after a review of all documentation and information submitted by the parties:

1. The District submitted a copy of the Student's safety plan, (Safety Plan 1) developed by an outside agency, dated February 16, 2023. The plan identified the following coping techniques the Student could use during school:
 - a. Focus on breathing;
 - b. Text Parent; and
 - c. Speak to an adult when in crisis¹.
2. The Student's IEP, effective February 3, 2023 and amended on March 24, 2023, included the following relevant information:
 - a. The Student had one goal for reading and one goal for writing. There were no behavior goals.
 - b. The following content was added during the March amendment:
 - i. The Student was diagnosed with [REDACTED]
 - ii. An accommodation of having "access to [the] school counselor or school social worker in the event of an expression of extreme anxiety or depressive feelings."

¹ Safety Plan 1 did not include information regarding the Student accessing the restroom.

- c. The IEP did not include any statements regarding a safety plan nor the Student having access to the restroom.
3. A "Behavior Detail Report" from September █████ 2023 documented the Student left the classroom without permission after being told they could not use the restroom because there was less than 10 minutes of class left and students are not permitted to use the restroom the last 10 minutes of class per school policy.
4. On September 26, 2023, the Assistant Principal emailed several staff members reminding them that the Student had accommodations related to anxiety, depression and █████. The Assistant Principal stated, "First, [the Student] should be given access to [the] school counselor and/or school social worker in the event of an expression of extreme anxiety or depressive feelings. Second, [the Student] should be given access to the restroom when requested."
5. A "Behavior Detail Report" from October █████ 2023, documented the Student left the classroom without permission after being told they could not use the restroom due to capacity limitations².
6. Email exchanges between the Parent and the Student's intervention specialist (IS) between October 17 and October 20, 2023 included the following information:
 - a. The Parent expressed concern that the IS did not allow the Student to use the restroom because of "maximum capacity" and reminded the IS that the Student's IEP states the Student must have access to the restroom.
 - b. The IS's response included the following:
 - i. The IS confirmed that the Student was informed they could not use the restroom at the time requested based on the school's capacity rule.
 - ii. The IEP states the Student can see the counselor or social worker for anxiety or depression, but it does not include any information regarding restroom needs and does not state the Student must be allowed to go to the restroom when requested.
 - iii. The IS advised the Parent to follow up with the school nurse if the Parent had a doctor's note addressing restroom concerns for the Student.
 - c. The Parent informed the IS that there should be a copy of the "doctor's safety plan" with the IEP. The Parent reported she gave a copy of the safety plan to the office and the Student's freshman counselor last year and requested "that it be placed with the IEP."
 - d. The IS checked with the school nurse and the Student's prior counselor and was unable to find a safety plan for the Student.
 - e. The Parent stated an updated safety plan (Safety Plan 2) was created the previous day and the Parent sent it to the Assistant Principal to be added to the IEP³.
 - f. The IS requested a copy of the updated safety plan so she could "upload it with [the Student's] IEP for easy access."
7. Safety Plan 2, completed by an outside agency and dated October 19, 2023, included the following coping techniques the Student could use while at school:
 - a. Focus on breathing;
 - b. Text Parent;
 - c. Splash water on face;
 - d. Ask for a restroom break;
 - e. Step outside of class to calm down; and

² The school has an electronic hall pass system which tracks the number of students in the hallway. If too many students are in the hallway then the system denies the hall pass request.

³ A copy of Safety Plan 2 (Issue 1, Fact 7) was submitted with the IEP but was not referenced in the IEP.

- f. Go to the nurse's office.
8. On October 27, 2023, the Parent emailed the Assistant Principal a note from the Student's doctor, dated October 26, 2023, that requested staff "allow [the Student] to use the restroom as needed during the school day, not to exceed [two] times a day." The Parent asked for the note to be added to the Student's IEP along with the updated safety plan that was provided the previous week.
9. There was no documentation submitted demonstrating that the IEP was amended following the October 27 email.
10. A series of emails from November 15, 2023 between the Parent and the Assistant Principal included the following:
 - a. The Parent informed the Assistant Principal that a substitute teacher was preventing the Student from leaving the room to use the restroom by blocking the door.
 - b. The Assistant Principal reported she went to the classroom to check on the Student and was informed that the Student was in the restroom.
 - c. The Parent stated the Student's [REDACTED] and anxiety were heightened due to the interaction with the teacher.
 - d. The Assistant Principal noted she saw the Student in her office. The Assistant Principal offered to let the Student stay in the office and the Student reported they were fine and could return to class.
11. An electronic hall pass log recorded 50 hall passes were provided to the Student between March 2023 and January 5, 2024. Forty-one of the hall passes were specific to the Student using the restroom. There were no hall passes documenting the Student went to the counselor or social worker.
12. There was no documentation submitted regarding the Student requesting to see the counselor or social worker nor the Student being denied access to the counselor or social worker.

Finding:

The District is not in violation of 34 C.F.R. 300.323 [When IEPs must be in effect]. This section of the law states that at the beginning of each school year, districts must have an IEP in effect for students who qualify for special education and related services. For an IEP to be in effect, it must be implemented as written. Here, the Student's IEP included an accommodation that allowed the Student to see the school counselor or social worker when experiencing anxiety or depression. The IEP did not include accommodations, interventions, or supports regarding the Student accessing the restroom. While the Parent requested that an outside agency's safety plan be added to the Student's IEP, it was never officially added through an IEP amendment. Additionally, Safety Plan 1 did not include information regarding accessing the restroom and Safety Plan 2 stated the Student could "ask" to use the restroom. There was no documentation submitted by either party demonstrating the Student requested nor was denied access to the school counselor or social worker. For these reasons, the District is not in violation.

Issue 2:

The Parent alleges the District did not reconvene the Student's IEP team after the Parent provided staff with a copy of a safety plan from the Student's medical provider and requested the plan be added to the Student's IEP. This is an alleged violation of 34 C.F.R. 300.324(b) [Review and revision of IEPs].

Facts:

The following facts were determined after a review of all documentation and information submitted by the parties:

1. As noted in Issue 1, Fact 1, the Student had a safety plan created by an outside agency on February 16, 2023 (Safety Plan 1).
2. The Student's IEP, effective February 3, 2023, was amended on March 24, 2023 to include information regarding the Student's PTSD diagnosis and update the Student's accommodations (see Issue 1, Fact 2). The IEP did not include any reference to a safety plan.
3. A March 24, 2023 prior written notice (PR-01) documented the Student's IEP was amended based on the most recent evaluation team report (ETR) and "medical documentation provided by [the Parent]." The PR-01 did not state what the medical documentation included or what was amended pertinent to the medical documentation.
4. On October 20, 2023, the Parent emailed the Assistant Principal a copy of the Student's updated safety plan (Safety Plan 2; see Issue 1, Fact 7) and requested that the Assistant Principal attach the plan to the Student's IEP and share it with the Student's teachers and security.
5. On October 27, 2023, the Parent emailed the Assistant Principal and several staff members, including the Student's IS, a doctor's note from the Student's primary doctor (see Issue 1, Fact 8). The Parent requested that the doctor's note be added to the Student's IEP and be shared with the school nurse and security. The IS responded to the Parent that the Assistant Principal was "out for a few days" and the IS shared the information with the nurse and security.
6. On October 30, 2023, the Assistant Principal sent a copy of the Student's Safety Plan 2 to several staff members for their review. The Student's IS responded that she "attached the updated safety plan to [the Student's] IEP last week" and shared it with the nurse and security.
7. The documentation submitted did not include additional amended IEPs following the March 24, 2023 amendment, nor PR-01s documenting the IEP team reconvened or reviewed and considered a safety plan or doctor's note submitted by the Parent.

Finding:

The District is in violation of 34 C.F.R. 300.324(b) [Review and revision of IEPs]. This section of the law states, districts must review and revise students IEPs, as appropriate, to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate;
- The results of any reevaluation;
- Information about the child provided to, or by, the parents;
- The child's anticipated needs; or
- Other matters.

In this case, during the month of October 2023, the Parent provided District staff with an updated safety plan and medical information about the Student and asked for the information to be added to the Student's IEP. While the IS "attached" a copy of the safety plan to the IEP, the IEP team did not review and revise the Student's IEP based on the new information. For this reason, the District is in violation.

Corrective Action for all Issues:

1. **February 7, 2024:** By this date, the District will submit a copy of the Student's most recent IEP and accompanying PR-01 to the EPS. If the safety plan and medical information were reviewed and considered by the IEP team, no further action is required.
2. **February 26, 2024:** If the IEP team did not address the updated safety plan or medical information during the most recent IEP meeting, then the IEP team will reconvene to review and revise the IEP based on the updated information. A copy of the updated IEP and accompanying PR-01 will be submitted to the EPS by the identified date.
3. **February 28, 2024:** The Director of Special Education will draft a memorandum regarding 34 C.F.R. 300.324(b) [Review and revision of IEPs]. Specifically, the memorandum will outline that an IEP team must review and revise the IEP, as appropriate, when a parent provides updated information regarding the Student and requests for the information to be added to the IEP. The memorandum will note that outside information provided by the Parent can only be incorporated into the IEP through the amendment process and not by attaching the information to the IEP. The memorandum will be shared with all special education staff in the Student's school building. A copy of the memorandum signed and dated by the Student's IS will be submitted to the EPS by the identified date.

The District's final corrective action is due by: **February 28, 2024**. Please submit all corrective action by the above due dates to the Office for Exceptional Children, attention Emily Menker. Please reference the complaint number on all correspondence.

We appreciate your cooperation in the resolution of the complaint investigation.

Sincerely,

Jo Hannah Ward

Jo Hannah Ward, Director
Office for Exceptional Children

cc: [REDACTED], Parent
Michalene Nelson, Special Education Director
Emily Menker, Education Program Specialist
Rebecca Baum, Education Program Specialist