



Mohammed Choudhury
State Superintendent of Schools

September 22, 2021

Ms. Ronnetta Stanley
Loud Voices Together
P.O. Box 1178
Temple Hills, Maryland 20757

Mr. Philip A. Lynch
Director of Special Education Services
Montgomery County Public Schools
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: [REDACTED]
Reference: #22-008

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 July 27, 2021, the MSDE received a complaint from Ms. Ronnetta Stanley, hereafter, “the complainant,” on behalf of the above-referenced student and her mother, Ms. [REDACTED]. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) 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 MCPS did not complete an IDEA evaluation of the student that began on June 9, 2020, within the required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.
2. The MCPS did not follow proper procedures to develop an Individualized Education Program (IEP) within the required timelines after its identification of the student as a student with a disability, on February 8, 2021, in accordance with 34 CFR §300.323.

BACKGROUND:

The student is ten (10) years old and is identified as a student with a Specific Learning Disability (SLD), under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On June 9, 2020, the student's parent made a written referral to the MCPS for an initial IDEA evaluation of the student. The referral reflects concerns in the areas of academics, social and emotional behavior, and communication.
2. On July 27, 2020, the IEP team convened in response to the referral made by the student's parent. The IEP meeting summary reflects that the team reviewed the student's educational record, 504 Accommodation Plan,¹ parent questionnaire and input, and teacher reports. Based on this review, the team determined that educational, behavioral, and expressive and receptive language assessments would be conducted for the student.
3. On February 8, 2021, the IEP team convened to review assessment results. Based on this review, the team determined that the student was a student with a disability under the IDEA that required the provision of specialized instruction, supports, and related services.
4. On March 11, 2021, the IEP team reconvened to develop the student's initial IEP, consistent with the data.
5. The MCPS acknowledges that both, the IDEA evaluation and the development of the IEP for the student were not completed within the required timelines as a result of the inability to complete assessments during the closure of school buildings due to the COVID-19 pandemic.

CONCLUSIONS:

Allegations #1 and #2: IDEA Evaluation Timelines and Initial IEP Development Timelines

Based on the Findings of Facts #1 - #5, the MSDE appreciates the MCPS' acknowledgement and concurs with the findings that the MCPS did not ensure that the IDEA evaluation and the development of the IEP for the student were completed within the required timelines, in accordance with 34 CFR §§300.301, .323, and COMAR 13A.05.01.06. Therefore, this office finds that violations occurred with respect to the allegations.

¹ Section 504 of the Rehabilitation Act of 1973.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.² This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that any of the time frames below may not be met, or if either party seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Dr. Birenbaum can be reached at (410) 767-7770 or by email at nancy.birenbaum@maryland.gov.

Student-Specific

The MSDE requires the MCPS to provide documentation that the IEP team has convened to determine the amount and nature of compensatory services or other remedy to redress the violations identified in this Letter of Findings.

School-Based

The MSDE requires the MCPS to provide documentation of the steps taken to ensure that the violations do not recur at [REDACTED]

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. Pending this office's decision

² The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, the MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

³ The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

The parent and the school system 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: Monifa B. Mcknight
Philip A. Lynch
Maritza Macias
Julie Hall

Brian Morrison
Albert Chichester