




Mohammed Choudhury
State Superintendent of Schools

April 8, 2022




Ms. Tia McKinnon
Director of Special Education
Charles County Public Schools
P.O. Box 2770
La Plata, Maryland 20646

RE: 
Reference: #22-095

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 February 22, 2022, the MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Charles County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the CCPS did not ensure that the student was provided with the supports required by the Individualized Education Program (IEP) between September 21, 2021 and February 18, 2022, in accordance with 34 CFR §§300.101 and .323. Specifically, you allege that the student was not provided with the following supports in her literacy class¹:

- a. private conversations with school staff about behavior;
- b. school staff praise and positive recognition for behavior;
- c. planned ignoring by school staff, as appropriate;
- d. a home-school communication system; and
- e. check-ins for understanding by the school staff.

¹ During the investigation, it was determined that the alleged violation identified in the State complaint during the time period was specific to the student’s literacy class.

BACKGROUND:

The student is seventeen (17) 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. The IEP in effect on September 21, 2021 reflects that the student is to be provided with the following supports:
 - a. private conversations with school staff about behavior;
 - b. school staff praise and positive recognition for behavior;
 - c. planned ignoring by school staff, as appropriate;
 - d. a home-school communication system, weekly, via phone, email, and daily progress reports; and
 - e. check-ins for understanding by the school staff, daily, with [the student's] case manager to monitor her completion of assignments/grades, and behavior progress.
2. The student's accommodations checklist maintained by her literacy teacher, dated from September 1, 2021 to February 18, 2022, reflects that the student was provided with the supports required by the IEP, with the exception of the home-school communication system, which states that the "[student's] academic and behavioral progress should be communicated home on a weekly basis. Progress should be communicated via phone, email, and daily progress reports."
3. On March 2, 2022, the IEP team convened to review and revise the student's IEP, as appropriate. The IEP prior written notice reflects that the school staff acknowledged that the home-school communication between the school staff and the complainant was not consistently provided on a weekly basis, as required by the IEP. The school staff indicated that it was a "misunderstanding," as it was thought that the weekly communication was to occur only when the student demonstrated "issues" in the classroom. The school staff further indicated that the student's teacher would be communicating weekly with the complainant moving forward, as required by the IEP.
4. On March 2, 2022, the IEP team also discussed the student's behavior. The IEP prior written notice reflects that in September and October 2021, the student had seven (7) incidents of inappropriate behavior and since that time, the student has "acclimated well and has continued to perform well" in school. The complainant reported that, when she was contacted by the teacher, it was regarding the student's "behavior, not her grades." In addition, her grades reflect "all A's and B's" for the first two quarters of the 2021 - 2022 school year.
5. The progress reported on the student's annual behavior and academic IEP goals, dated November 10, 2021 and January 27, 2022, reflect that the student was making sufficient progress to achieve the goals within a year.

6. At the March 2, 2022 IEP team meeting, the team also discussed the State complaint filed by the complainant and whether compensatory services were warranted for the student. The IEP prior written notice reflects that the “IEP team reviewed the data to support implementation of the IEP in all of the student’s classes. While there was not a weekly reporting of [the student’s] progress in Literacy class, the IEP team agreed that there was no detrimental impact and that [the student] has received a Free Appropriate Public Education (FAPE). The IEP has been implemented in [the student’s] classes and services provided with fidelity. Therefore, no compensatory services are owed.”

CONCLUSIONS:

Based on the Findings of Facts #1 - #6, the MSDE finds that the CCPS has not ensured that the complainant was consistently provided with the home-school communication support required by the IEP, between September 21, 2021 and February 18, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #3 - #6, the MSDE finds that the IEP team convened on March 2, 2022, reviewed the student’s academic and behavioral progress, teacher, parent, and student input, and determined that the violation did not negatively impact the student’s ability to benefit from the education program.

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.

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.

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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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

The MSDE requires the CCPS to provide documentation by May 15, 2022 that the home-school communication support is being provided as required by the IEP.

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

The parties 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 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: Maria Navarro
LaWan Jones
[REDACTED]
Brian Morrison
Gerald Loiacono
Albert Chichester
Diane Eisenstadt

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.