



Mohammed Choudhury
State Superintendent of Schools

July 25, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Kim Waller
Supervisor of Special Education
Dorchester County Public Schools
[REDACTED]
700 Glasgow Street
Cambridge, Maryland 21613

RE: [REDACTED]
Reference: #22- 169

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.

ALLEGATION:

On May 26, 2022, the MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Dorchester County Public Schools (DCPS) 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 DCPS has not ensured that the student was consistently provided with the supports, accommodations, and specialized instruction, as required by the Individualized Education Program (IEP), since the start of the 2021- 2022 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is sixteen (16) years old and is identified as a student with an Other Health Impairment (OHI) under the IDEA. She attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEPs developed on January 29, 2021, and January 12, 2022, requires the student to be provided with five hours of special education instruction per week in the general education setting to focus on "all of her subjects." The IEP further requires that the student be provided with supplementary aids, services, program modifications, and supports, including checklists for turning in completed assignments to her classroom teacher, assistance with organization, math strategy sheets, use of manipulatives, paraphrase questions and instructions, check-in for understanding, alternate ways to demonstrate learning, a flash pass, and advance notice of being called on to answer a question. The IEP also requires that the student be provided with testing and instructional accommodations, including text-to-speech for mathematics, science, and government assessments, small group testing, a calculation device, and extended time.
2. Teacher logs reflect that the student was provided with special education instruction from the DCPS staff required by her IEP from August 31, 2021, to May 17, 2022¹.
3. The teacher logs also reflect that the student was provided with supplementary aids, services, program modifications, and supports, including check-in for understanding and alternate ways to demonstrate learning, small group instruction, and use of a calculation device, advance notice of being called on to answer a question, and check ins to demonstrate learning for the 2021- 2022 school year. In addition, the nurse and guidance counselor log reflect that the student was provided with a flash pass during the 2021- 2022 school year.
4. There is no documentation that the student was provided with text-to-speech for mathematics, science, and government assessments, extended time, checklists for turning in completed assignments to her classroom teacher, assistance with organization, math strategy sheets, use of manipulatives, and paraphrase questions and instructions during the 2021- 2022 school year.
5. The student's 2021-2022 student's fourth quarter Interim Report reflects that she was absent for 81.5 days of school during the 2021- 2022 school year.

CONCLUSIONS:

Based upon the Findings of Facts #1, #2 and #5, the MSDE finds that the DCPS has ensured that the student was provided with special education instruction as required by the IEP during the 2021- 2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore this office does not find a violation with respect to this aspect of the allegation.

¹ There is documentation that the student was absent from May 18, 2022 to the end of the 2021-2022 school year.

Based upon the Findings of Fact #3, the MSDE finds that the DCPS has ensured that the student was provided with the supplementary aids, services, program modifications, and supports, including check-in for understanding, alternate ways to demonstrate learning, small group instruction, and use of a calculation device, advance notice of being called on to answer a question, check ins to demonstrate learning, and the social and the behavioral supports required by the IEP, during the 2021- 2022 school year in accordance with 34 CFR §§300.101 and .323. Therefore this office does not find a violation with respect to this aspect of the allegation.

However, based upon the Findings of Facts #4, the MSDE finds that the DCPS has not ensured that the student was provided with the testing and instructional accommodations of text-to-speech for mathematics, science, and government assessments and extended time (1.5). There is also no documentation that the student was provided all of the supplementary aids, services, program modifications, and supports, required by the IEP, specifically, checklists for turning in completed assignments to her classroom teacher, assistance with organization, math strategy sheets, use of manipulatives, paraphrase questions and instructions, as required by the IEP during the 2021- 2022 school year in accordance with 34 CFR §§300.101 and .323. Therefore this office finds that a violation occurred with respect to this aspect of the allegation.

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 non-compliance 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 Ms. Diane Eisenstadt, Compliance

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.

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.

Student Specific

The MSDE requires the DCPS to provide documentation by October 1, 2022, that the student is being provided with the following:

- checklists for turning in completed assignments to her classroom teacher
- assistance with organization
- math strategy sheets
- use of manipulatives
- paraphrase questions and instructions
- text-to-speech for mathematics, science, and government assessments
- extended time

The MSDE requires the DCPS to provide documentation by October 1, 2022, that the IEP team has convened and determined whether the violation related to the lack of supplementary aids, services, program modifications, and supports, and testing and instructional accommodations had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The DCPS must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School Based

The MSDE requires DCPS to provide documentation of the steps taken to ensure that the violation does not recur at [REDACTED] School. Those steps must include staff development, as well as tools created to document and monitor the provision of IEP supports and services to students with disabilities attending [REDACTED] School. The MSDE further requires the submission of three months of the completed monitoring tool for a random sample of twenty-five (25) students beginning on November 1, 2022, and for the two following months.

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.

[REDACTED]
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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 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 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:sd

c: Dave Bromwell
[REDACTED]
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Sarah Denney