



Mohammed Choudhury  
State Superintendent of Schools

March 10, 2023



Ms. Chris Wittle  
Director of Special Education  
Carroll County Public Schools  
125 North Court Street  
Westminster, Maryland 21157

RE: [REDACTED]  
Reference: #23-124

Dear Parties:

Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 January 9, 2023, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Carroll County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The CCPS did not ensure that the parent was afforded the opportunity to participate in the Individualized Education Program (IEP) team meeting convened on December 19, 2022, in accordance with 34 CFR §300.322.
2. The CCPS has not followed proper procedures when conducting a reevaluation of the student, on December 19, 2022, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06.
3. The CCPS did not follow proper procedures when revising the student’s IEP, on December 19, 2022, in accordance with 34 CFR §300.324.
4. The CCPS has not ensured that the student has been consistently provided with adult support as required by the IEP, since the beginning of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.

5. The CCPS has not ensured that the student has been consistently provided with extended time as required by the IEP, since the beginning of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.
6. The CCPS has not developed and implemented an IEP that addressed the student's identified speech language needs since the beginning of the 2022-2023 school year, in accordance with 34 CFR §§300.324.

**BACKGROUND:**

The student is fifteen (15) years old and is identified as a student with Other Health Impairment (OHI) under the IDEA and has an Individualized Education Plan (IEP) that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The IEP in effect at the beginning of the 2022-2023 school year was developed on April 7, 2022. It reflects the areas affected by the student's disability, including: Academic- Math Problem Solving, Academic- Physical Education, Academic- Reading Comprehension, Academic - Speech and Language, Pragmatics, Academic-Written Language Mechanic, Behavioral- Social Emotional/Behavioral, and Physical-Fine Motor. The student's IEP requires that she receive 28 hours and 50 minutes per week inside the general education setting, and 5 hours 20 minutes per week outside of the general education classroom as well as supplementary aids and support including the use of extended time.. The student also receives Speech/Language therapy as a related service inside and outside of the general education classroom.
2. The IEP in effect at the beginning of the 2022-2023 school year, reflects the student requires daily close adult support. The close adult support staff (provided by an Instructional Assistant, General education teacher, School Counselor, Special Education Classroom Teacher, and/or Speech/Language Pathologist), is required to:
  - Provide opportunities for sensory activities/breaks to relieve heightened anxiety in and out of the classroom;
  - Support during assessments in order to monitor and sustain attention;
  - Remind the student to look at all choices and/or listen to auditory information before responding to questions;
  - Model appropriate social interchanges and verbal prompting (ex. Please, thank you); and
  - Monitor the student during transition to, from, and within the classroom.
3. The IEP in effect at the beginning of the 2022-2023 school year requires that the student receives speech/language therapy as a related service including one session per week inside the general education setting , and one session per week outside of the general education setting, for 20 minutes each. The speech/language service log reflects that since the start of the school year, the only dates in which services were not provided were due to either the student's absence from school or school closure.

4. On October 4, 2022, the IEP team met to conduct an evaluation of the student. The team discussed concerns with the student's anxiety and the need for social/emotional/behavior assessments to determine the potential need for counseling on the IEP. The IEP team proposed that assessments be completed for the student in the following areas:
  - Reading,
  - Mathematics,
  - Written Language,
  - Physical Education,
  - Intellectual/Cognitive Functioning,
  - Emotional/Social Behavior Development,
  - Expressive/Receptive Language,
  - Pragmatics, and
  - Other: Functional Behavioral Assessment, Close Adult Support.
5. The prior written notice prepared following the IEP team meeting reflects the parent's expressed concerns, including the school-based team's response, as well as clarifying the close adult support in the IEP can be provided by an instructional assistant, a special educator, or a general educator.
6. Classroom observations recommended for the student occurred on October 25 and October 28, 2022, to determine if the student required direct adult support. The reports completed following the observation reflect the student did not demonstrate the need for adult support/close adult supervision at all times during the school day.
7. On November 14, 2022, the CCPS emailed the parent requesting to hold an IEP team meeting on December 19, 2022, at 7:30am or 10:00am. On the same day, the parent confirmed that she was available to meet at either time on that date. The CCPS responded and scheduled the IEP team meeting.
8. On December 12, 2022, the following documents were provided to the parent: School Psychologist Report, Speech/Language Report, CCPS Educational Assessment Report, Close Adult Observation, Adapted Physical Education Assessment Report, Eligibility Tools for Autism, Other Health Impairment, Speech Language Disability, Emotional Disability, Specific Learning Disability, and Multiple Disability, and the current IEP.
9. On December 16, 2022, the parent emailed CCPS staff, requesting the December 19, 2022, IEP team meeting to be rescheduled. That same day, the CCPS responded that the IEP team meeting could not be rescheduled because the meeting must be held by January 1, 2023, in order to meet evaluation timelines and staff were not available at an alternative time. The CCPS proposed that the parent join the IEP team meeting via teleconference. They further suggested a "follow up meeting" to review the information with the parent after the winter break in the event that a teleconference was not possible.
10. On December 16, 2022, the parent emailed the CCPS informing them that she is unable to attend or participate via teleconference and needs the IEP team meeting to be rescheduled. The parent requested the team send three additional meeting dates. The CCPS responded that the meeting could not be rescheduled and again offered to meet with the parent after the meeting or for the

parent to participate via teleconference. The CCPS also provided the parent with the opportunity to share input with the IEP team in writing.

11. On December 18, 2022, the parent again emailed the CCPS, informing the team that due to a family emergency, the meeting on December 19, 2022, needs to be rescheduled and requesting three additional dates. The CCPS responded to the parent's request reiterating that the meeting needed to move forward as scheduled and provided the contact information for the family support liaison. The parent responded that if the meeting was going forward, she requested that the meeting be recorded and a copy provided to her at no cost.
12. On December 19, 2022, the complainant again emailed the CCPS, expressing that she is unable to attend the meeting on December 19, 2022, and would like the meeting to be rescheduled.
13. On December 19, 2022, the IEP team convened without the parent present and completed the evaluation for the student.
14. The prior written notice for the December 19, 2022 meeting, reflects the school-based IEP team determined that the student continues to be a student who qualifies for services under the IDEA. The student requires support with reading, writing, math, physical education, expressive, receptive, and pragmatic language, intellectual/cognitive functioning, and emotional/social behavior development. The student did not meet the qualifications as a student with Autism, Emotional Disability, Speech-Language Impairment, or Specific Learning Disability. The student will continue to receive support for her speech language needs via consult rather than direct services, and the student does not need adult support.
15. On January 23, 2023, the IEP team met to review and revise, as appropriate the student's IEP and to discuss her educational placement. Because the student no longer had identified needs in the areas addressed by direct services, the IEP team determined that the student requires consultative psychological, occupational therapy, and Speech/Language services. The student's IEP requires that she receive 27 hours 30 minutes/week inside the general education classroom, and 6 hours 40 minutes/week outside of the general education classroom of specialized instruction. The IEP also states that the student "requires adult support supervision from bus to school building and from school building to home." The student is also provided adult support when testing. The IEP continued to require that the student be provided with extended time.
16. The student's class schedule reflects that the student was provided with adult support in her classes, when required, since the beginning of the 2022-2023 school year.
17. There is a tracker completed by the CCPS staff, which reflects the days that the extended time and other accommodations were used by the student throughout the school day, when required, since the beginning of the 2022-2023 school year.

#### **DISCUSSION/CONCLUSIONS:**

##### **Allegation #1:**

##### **Parent Participation in IEP meeting**

Each public agency must take steps to ensure that parents are afforded the opportunity to participate in IEP team meetings, including notifying parents of the meeting early enough to ensure that they will have an

opportunity to attend, and scheduling the meeting at a mutually agreed upon time and place. If the parent cannot attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls (34 CFR §300.322).

Here, the IEP team initially scheduled the meeting at mutually agreed upon time and place. However, the parent clearly communicated with the team in advance of the scheduled meeting that the agreed upon date was no longer amenable due to a family emergency. The parent informed the team that she would be unable to participate by phone and requested multiple times that the meeting be rescheduled. The IEP team, concerned with missing the evaluation timelines, declined to reschedule the meeting and proceeded without the parent's participation.

Failure to include the parent in the IEP team process may result in a denial of a free appropriate public education (FAPE). The parent is a critical member in the development of a student's IEP, as indicated by the inclusion of the parent as a required member of the IEP team (20 U.S.C. § 1414(d)(1)(B)(i)). When faced with a situation where the scheduling of a mutually agreed upon IEP team meeting date may result in another violation of IDEA, such as compliance with evaluation timelines, MSDE looks to the totality of the circumstances, including the efforts of the IEP team to work with the parent to find a mutually agreed upon meeting time, as well as the impact on FAPE if the team moves forward without the parent.

Based on Findings of Facts #7- #15, MSDE finds that there is no documentation that the school staff considered whether accommodating the complainant's schedule would do more harm to the student than proceeding without the complainant's presence at the IEP team meeting. CCPS failed to consider any additional dates, despite the clear willingness and eagerness of the parent to participate in the meeting. There is also no documentation that the CCPS acknowledged or agreed to the complainant's request to audiotape the meeting and permit her to provide input after listening to the audiotapes. Therefore, this office finds a violation with respect to this allegation.

Notwithstanding that violation, MSDE further finds that the parent was afforded the opportunity to provide input into the IEP decisions made in her absence in subsequent IEP team meetings. Therefore, no additional corrective action is necessary to remedy this violation.

**Allegation #2 Proper procedure when conducting reevaluation on December 19, 2022**

Based on Findings of Facts #4- #6 and #14- #16, MSDE finds that the CCPS did ensure that proper procedures were followed when completing the evaluation of the student, in accordance with 34 CFR §§300.303-.306 and COMAR 13A.05.01.06. The following data sources were considered for the purpose of determining the areas of need: parent input, aptitude and achievement tests, physical condition of the student, adaptive behaviors, and IEP team input. Eligibility worksheets were completed and the team used data from the assessments to determine the student's eligibility classification. Therefore, this office finds that a violation did not occur with respect to this allegation.

**Allegation #3 Revision of IEP on December 19, 2022**

In order to provide a student with a Free Appropriate Public Education (FAPE), the public agency must ensure that an IEP is developed that addresses all of the needs that arise out of the student's disability that are identified in the evaluation data. In developing each student's IEP, the public agency must ensure that the IEP team considers the strengths of the student, the concerns of the parents for enhancing the education of the student, the results of the most recent evaluation, and the academic, developmental, and functional needs of



[REDACTED]  
Ms. Chris Wittle

March 10, 2023

Page 7

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 FAPE for the student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann Collins

Deputy Superintendent

Division of Early Intervention/Special Education Services

DMC: ra

c: Cynthia McCabe  
Wayne Whalen  
[REDACTED]  
Diane Eisenstadt  
Gerald Loiacono  
Rabiatu Akinlolu