



Mohammed Choudhury
State Superintendent of Schools

August 13, 2021



Dr. Arden Sotomayor
Director of Special Education
Charles County Public Schools
5980 Radio Station Road
La Plata, Maryland 20646

RE: 
Reference: #21-119

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 June 22, 2021, the MSDE received a complaint from Mr.  hereafter “the complainant,” on behalf of his son, 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 student.

The MSDE investigated the allegation that the CCPS has not ensured that the student has been provided with a Free Appropriate Public Education (FAPE), since March 8, 2021, in accordance with 34 CFR §§300.101.320, .323 and .324. Specifically:

- a. The CCPS did not ensure that the Individualized Education Program (IEP) was reviewed and revised based on private evaluations provided on February 4, 2021; and
- b. The CCPS did not follow proper procedures when withdrawing the student from the school system on March 8, 2021.

██████████
Dr. Arden Sotomayor
August 13, 2021

BACKGROUND:

The student is nine (9) years old, is identified as a student with a Speech/Language Impairment under the IDEA, and has an IEP that requires the provision of special education and related services. He attended ██████████ School until the closure of school buildings and initiation of virtual learning in March 2020 due to the COVID-19 pandemic. On March 8, 2021, the student was withdrawn from CCPS due to lack of residency.

FINDINGS OF FACTS:

1. On September 21, 2020, school staff was informed that the student was residing temporarily with a caregiver (relative) in ██████████ due to the need for supervision to ensure access to virtual learning during the COVID-19 pandemic until he could return to in-person learning.
2. On November 18, 2020, the CCPS provided guidance to school staff that if a student was placed outside of the jurisdiction on a permanent basis, or if the student was living out of the United States during the pandemic, the student was to be withdrawn from the school system for lack of residency.
3. On February 4, 2021, the complainant provided the school staff with reports of privately obtained neuropsychological and occupational therapy assessments for review at an IEP team meeting scheduled for February 22, 2021.
4. The parent contact log reflects that the February 22, 2021 IEP team meeting was postponed in order to verify the student's continued residency in the jurisdiction.
5. On February 22, 2021, the CCPS Board of Education decided that in-person learning would resume on March 22, 2021.
6. On February 24, 2021, a CCPS Pupil Personnel Worker (PPW) informed the complainant that students were to return to in-person instruction on March 22, 2021, and that a home visit would be conducted to verify the student's residency in Charles County.
7. On March 1, 2021, the school staff spoke with the complainant, who reported that the student would return to Charles County by March 8, 2021.
8. On March 5, 2021, the complainant informed the PPW that the student was not going to return to Charles County, and he requested that the student continue to be provided with virtual learning through the end of the 2020-2021 school year. The PPW informed the complainant that this was not an option, and the student would be withdrawn on March 8, 2021.
9. On March 8, 2021, the student was withdrawn from the CCPS.


Dr. Arden Sotomayor
August 13, 2021

CONCLUSION:

In this case, the complainant alleges that the CCPS denied the student a FAPE by withdrawing him from the school system and not convening the IEP team to review the results of private assessments that he obtained.

Based on the Findings of Facts #1 - #9 above, the MSDE finds that the CCPS was no longer obligated to provide the student with a FAPE after it was determined that he does not reside in the jurisdiction with the complainant. As a result, the MSDE further finds that there was no obligation to continue to review data and revise the IEP based on that data, in accordance with 34 CFR §§300.101.320, .323 and .324. Therefore, this office does not find that a violation occurred.

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.

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
and Special Education Services

c: Kimberly Hill
Lewan Jones

Dori Wilson
Anita Mandis
Sharon Floyd