



Mohammed Choudhury
State Superintendent of Schools

July 15, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Mr. Nicholas Shockney
Director of Special Education
Carroll County Public Schools
125 North Court Street
Westminster, Maryland 21157

RE: [REDACTED]
Reference: #22-142

Dear Parties:

The 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 May 17, 2022, the 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) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The CCPS has not ensured that the proper procedures were followed when conducting a reevaluation of the student on April 5, 2022, in accordance with 34 CFR §300.301-.306 and COMAR 13A.05.01.06.
2. The CCPS has not ensured that the parent was provided with accessible copies of documents the IEP team planned to discuss at the Individualized Education Program (IEP) team meeting at least five (5) business days before the scheduled meeting, since April 5, 2022, in accordance with Md. Code Ann., Educ., § 8-405 (2010).

3. The CCPS did not ensure that the parent was provided with copies of the procedural safeguards notice since June 2021, in accordance with 34 CFR §300.504.
4. The CCPS did not follow proper procedures when amending the IEP following the April 5, 2022 IEP team meeting, in accordance with 34 CFR §300.324

BACKGROUND:

The student is five (5) years old and attends [REDACTED] School. Prior to April 5, 2022, he was identified as a student with a Developmental Delay under the IDEA and has an IEP that requires the provision of special education instruction.

**ALLEGATIONS #1 and #4: CONDUCTING AN EVALUATION OF THE STUDENT,
AND AMENDING THE IEP**

FINDINGS OF FACTS:

1. On January 25, 2022, the IEP team met to conduct an evaluation for the student. The IEP team considered an "outside assessment report" completed for the student as well as IEP progress reports, classroom data, teacher input, parent input, and determined that there was insufficient data to determine that the student was eligible under the IDEA. The IEP team agreed to collect additional data for the student to complete the evaluation. The IEP team recommended that a speech/language pragmatics assessment, observation, psychological social/emotional and behavior assessment, and educational assessment be completed for the student.
2. On April 5, 2022, the IEP team met to complete the evaluation for the student. The IEP team reviewed the CCPS occupational therapy assessment, CCPS speech/language assessment, private psychological assessment, educational assessment and observation conducted for the student. Based on the assessment data, the IEP team determined that the student did not meet the eligibility criteria for Autism, as diagnosed by the student's private psychological assessment. To support this decision, the team referenced additional testing completed by the CCPS indicating that the student did not have "significant difficulties" in communication or social interaction that resulted in an educational impact for the student. The IEP team noted that the student had average pragmatics skills and that social interaction skills reported by the student's classroom teachers fell in the average range. The IEP team similarly determined that the student did not meet the criteria for developmental delay as there was no educational impact requiring specialized instruction related to the student's needs.

3. Following the IEP team meeting on April 5, 2022, the IEP for the student was amended to indicate that the student was "exited" from special education services due to no longer being eligible under the IDEA.

DISCUSSION/CONCLUSIONS:

Allegation #1: Conducting the Evaluation

Based on Findings of Facts #1 and #2, the MSDE finds that the CCPS has ensured that proper procedures were followed when conducting an evaluation of the student on April 5, 2022, in accordance with 34 CFR §300.301-.306 and COMAR 13A.05.01.06. Therefore, this office does not find that a violation occurred with respect to this allegation.

Allegation #4: Amending the IEP

Based on Findings of Facts #2 and #3, the MSDE finds that the CCPS has ensured that the student's IEP was appropriately amended to reflect the IEP team decision made on April 5, 2022, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #2: PROVISION OF IEP DOCUMENTS

FINDING OF FACT:

4. The CCPS has acknowledged that the parent did not receive a completed copy of the occupational therapy assessment at least five days prior to the IEP team meeting convened on April 5, 2022.

DISCUSSION/CONCLUSION:

Based on Finding of Fact #4, the MSDE finds that the CCPS has not ensured that the parent was provided with accessible copies of each document the IEP team planned to discuss at the IEP team meeting at least five business days before the scheduled meeting on April 5, 2022, in accordance with Md. Code Ann., Educ., § 8-405 (2010). Therefore, this office finds that a violation has occurred with respect to this allegation. Notwithstanding this violation, the MSDE further finds that there is no documentation that the parent's ability to participate in the April 5, 2022 IEP meeting was impacted by this violation, and that as a result, no student-based corrective action is necessary to remediate this violation.

ALLEGATION #3: PROVISION OF PROCEDURAL SAFEGUARDS NOTICE

FINDING OF FACT:

5. There is documentation that the parent received a copy of the procedural safeguards notice on September 10, 2021 and was offered an additional copy of the procedural safeguards notice during the IEP team meeting on November 15, 2021.

DISCUSSION/CONCLUSIONS:

Based on Finding of Fact #5, the MSDE finds that the CCPS has ensured that the parent was provided with a copy of the procedural safeguards notice since June 2021, in accordance with 34 CFR §300.504. Therefore, this office does not find that a violation occurred with respect to this 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 noncompliance is corrected in a timely manner. 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 Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action. 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 October 1, 2022, of the steps taken to ensure that the violation does not recur at [REDACTED] School. Please note that any documentation that is submitted related to steps that will be undertaken in the future must be supplemented with signed acknowledgement by those staff members responsible for implementing those steps.

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Mr. Nicholas Shockney

July 15, 2022

Page 5

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 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:gl

c: Steven A. Lockard
Wayne Whalen
██████████
Alison Barmat
Diane Eisenstadt
Gerald Loiacono