



July 29, 2022

Ms. Sara Platenberg
Educational Advocacy and Consulting
20130 Lakeview Center Plaza, Suite 400
Ashburn, Virginia 20147

Mr. Philip Lynch, Director
Department of Special Education
Montgomery County Public Schools
850 Hungerford Drive
Rockville, Maryland 20850

RE: [REDACTED]
Reference: #22-182

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 June 3, 2022, the MSDE received a complaint from Ms. Sara Platenberg hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

Following a June 14, 2022, conversation with Ms. Platenberg, the MSDE investigated the following allegations:

1. The MCPS has not provided the student with a Free Appropriate Public Education (FAPE) in accordance with 34 CFR 34 CFR §300.17 and COMAR 13a.05.01, since June 3, 2021 through the end of the 2021 - 2022 school year by failing to:

- a. Provide special education and related services, as required by the student's Individualized Education Program (IEP);
 - b. Draft goals aligned with the data included in the present levels of academic and functional performance;
 - c. Draft grade level goals aligned with the Maryland College and Career Ready Standards (MCCRS); and
 - d. Implement an evidence-based reading intervention, as required by the student's IEP.
2. The MCPS has not ensured that the parent was provided with quarterly progress data required by the student's IEP goals since June 3, 2021 through the end of the 2021-2022 school year, in accordance with 34 CFR 300.320(a)(3) and COMAR 13a.05.01.09(B).

BACKGROUND:

The student is fourteen years old and has graduated from the eighth grade. He last attended [REDACTED] School, a comprehensive school located in Montgomery County, and is eligible as a student with a specific learning disability pursuant to the Individuals with Disabilities Education Act (IDEA).

FINDINGS OF FACT:

March 30-June 30, 2022 IEP

1. The student's most recent IEP is dated March 30, 2022. He has present levels of academic achievement and function performance in the following areas: reading phonics (instructional grade level 7-8); reading fluency (instructional grade level grade 8); reading comprehension (instructional grade level mid 4th-5th grade); math calculation (instructional grade level 5th grade); math problem solving (instructional grade level with support 5th grade); written language content (instructional grade level 7th grade); written language mechanics (instructional grade level 7th grade); encoding (instructional grade level 4-5th grade); expressive and receptive language (both below age expectancy); social/emotional/behavioral (below age expectancy); visual motor (meeting program expectations). All present levels have multiple sources of data identified to support the information contained in each section.
2. The student's March 30, 2022, IEP requires that he receives one and one half (1.5 hours) of specialized instruction outside of the general education setting daily for the remainder of the 2021-2022 school year. The team recommended receive one hour and forty minutes (1 hour 40 minutes) of specialized instruction inside of the general education classroom daily and two hours and thirty (2 hours and 30 minutes) of

specialized instruction outside of the general education classroom daily at the beginning the 2022-2023 school year until the end of the IEP cycle. The team recommended that the student receive two hours and fifteen minutes (2 hours and 15 minutes) of speech and language services monthly. The IEP team determined that the student was eligible for extended school year services.

3. The student's current IEP has goals in the following areas: Written Language Mechanics; Reading Comprehension; Social Emotional/Behavioral; Written Language Content; Math Calculation; Expressive Language; Receptive Language; Math Problem Solving; Reading Phonics; Encoding.
4. The student's written language mechanics goal, addressing revisions to text using "a variety of sentence structures," aligns with the present level area of needs reflecting concerns in editing and formatting written product for various purposes. This goal also aligns with the Maryland College and Career Ready Standards (MCCRS) L.8.2, addressing conventions of written language. The student's reading comprehension goal addresses responding to explicit and inferential questions, which aligns with his areas of need in the present levels and RL.8.1 of the MCCRS. The student's social emotional/behavioral goal addresses the use of coping strategies to manage anxiety and remain on task. This goal aligns with the data in the present levels. The written language content goal addresses the student's needs in writing arguments to support claims. This goal aligns with the MCCRS W.8.1, and his need area reflecting that he has difficulty supporting a claim. The student's math calculation needs are in the area of complex multiplication, fractions and decimals, order of operations, and checking for accuracy. His goal in this area addresses performing calculations with rational numbers when simplifying and solving equations. This goal aligns with some of the areas of need identified in the present levels. This goal is not aligned with the grade level MCCRS, but is aligned with the student's instructional level MCCRS 5.NBT.B.7. The student's math problem solving goal addresses modeling linear relationships to solve problems. This goal aligns with the MCCRS 8.EE.C, and is addressed in his need areas in his present levels. The remainder of the student's goals, his expressive/receptive language goals, reading phonics, and encoding goals are aligned with areas of need reflected in the present levels. They are not aligned with MCCRS as they are not grade level goals but based on individual needs as indicated in the present levels.
5. There is no evidence that implementation of a reading intervention was required in order for the student to receive a FAPE. There is also no documentation in the student's IEP that an evidence-based mathematics intervention is required, however, the student also participated in Math 180 for a period of time during the 2021-2022 school year.
6. There is no documentation that the student was provided the services as required by his March 30, 2022, IEP.

7. There is documentation that the student was able to successfully participate and progress in the grade level curriculum and progress on his goals and objectives with the supports and services provided by his IEP.
8. There is documentation that the student's family was provided with quarterly progress reports for the 2021 - 2022 school year, in accordance with 34 CFR 300.320(a)(3) and COMAR 13a.05.01.09(B).

February 21, 2021-March 29, 2022, IEP

9. The student's previous IEP was dated February 17, 2021. The IEP has present levels of academic achievement and functional performance in the following areas: Reading Phonics (5th grade); Reading Fluency (6th grade instructional level); Reading Comprehension (5th grade with supports); Math Calculation (5th grade with supports); Math Problem Solving (5th grade with supports); Written Language Content (5-6th grade with supports); Written Language Mechanics (4-5th grade with supports); Expressive and Receptive Language (below age expectancy); Encoding (5th grade); Social Emotional/Behavioral (below age expectancy); Visual Motor (meeting program expectations). There are multiple sources of data to support each present level.
10. The student's February 17, 2021, IEP has goals in the following areas: written language mechanics; reading comprehension; visual motor; social emotional/behavioral; written language content; math calculation; reading fluency; expressive language; receptive language; encoding.
11. The student's February 17, 2021, IEP required that he receive three (3) hours and forty-five (45) minutes of specialized instruction inside of the general education setting daily and two (2) hours and fifteen (15) minutes of specialized instruction outside of the general education setting daily, one period of which was for a reading class daily. The student also received one (1) hour monthly of occupational therapy service and two (2) hours and fifteen (15) minutes monthly of speech /language therapy.
12. The student's IEP requires that he receive a reading class outside of the general education classroom daily. There is documentation that the parent requested that the student be removed from his reading class on February 23, 2022. At the parent's request the student was to be placed in a family and consumer science (FACS) class "until a more appropriate intervention" could be determined. There is no documentation that the student participated in a reading intervention after that date.

13. The student's goal in encoding addresses encoding real and nonsense words. This goal is aligned with his present levels. The student's reading phonics goals addresses his ability to decode multisyllabic words. This goal is aligned with the data reflecting need areas in his present levels. Reading phonics is not a grade level standard but is based on the student's unique needs. The student's present level in reading fluency reflects below grade level expectations. His goal in that area is aligned with his present levels. The student's written language content goal addressed his ability to write arguments to support claims with clear reasons and evidence. This goal is aligned with MCCRS W.8.1 and is closely aligned with his need areas in his present levels. The student's reading comprehension goal requires that he quote accurately from a text when responding to explicit and inferential queries. This goal aligns with the MCCRS RL.8.1 and information in the needs statement in his present levels. The student's written language mechanics goal addressed drafting and revising text, and aligns with MCCRS L.8.2, but does not clearly align to the present levels in this area as the need areas are not specifically stated. The student's goals in expressive and receptive language align to the present levels, as does his social emotional/behavioral goal. The student's math calculation needs are in the area of fractions and decimals, combining like terms, and using the distributive property. His goal in this area addresses performing calculations with rational numbers when simplifying and solving equations. This goal aligns with some of the areas of need identified in the present levels. This goal is not aligned with the grade level MCCRS, but is aligned with the student's instructional level MCCRS 5.NBT.B.7. The student's math problem solving goal addresses solving single and multistep problems with rational numbers. This goal aligns with the MCCRS 5.NBT.B.7, but is not grade level aligned and is not clearly addressed in his need areas in his present levels. The student's visual motor goal is aligned with his present levels.
14. There is documentation that the student was able to successfully participate and progress in grade level curriculum, and on his IEP goals and objectives, with the supports provided by his IEP.
15. There is evidence that the family was provided with quarterly progress reports.
16. There is no documentation that the student was provided the services as required by his February 17, 2021, IEP.

CONCLUSION:

March 30, 2022 IEP

Based on Findings of Fact #1, 3, 4, and 5, the student's IEP provided him with a free appropriate public education in accordance with 34 CFR 34 CFR §300.17 and COMAR 13a.05.01, with

respect to his goals and objectives and reading intervention. Therefore, the MSDE does not find a violation for allegations 1 b, c, or d, with respect to the student's March 30, 2022, IEP.

Based on Findings of Fact #2 and 6, there is no documentation provided that the student received the services on his March 30, 2022, IEP. Therefore, the MSDE finds a violation with respect to Allegation #1 a.

Based on Findings of Fact #8, there is documentation that the family was provided with quarterly progress reports. Therefore, the MSDE does not find a violation with respect to Allegation #2.

February 21, 2021-March 29, 2022 IEP

Based on Findings of Fact #9, 10 and 13, the student's areas of need were identified in the present levels, and all his goals with the exception of the written language mechanics goal clearly aligns with his present levels. The written language mechanics goal does align with the grade level standard that the student was to achieve. The student's mathematics goals are aligned with the student's present levels, but not grade level standards. Therefore, the MSDE finds a violation with respect to Allegation #1b and c. Notwithstanding this violation, the MCPS provided documentation that the student successfully participated in, and progressed in, grade level curriculum, as well as on his IEP goals. Therefore, no student specific correction is required.

Based on Findings of Fact #16, there is no documentation provided that the student received the services on his February 21, 2021, IEP. Therefore, the MSDE finds a violation with respect to Allegation #1 a.

Based on Findings of Fact #11 and 12, the student's IEP required that he receive a reading intervention class daily. On Feb 23, 2022, his parent requested that he be removed from that class. There is documentation that the change took place immediately, however, his IEP was not changed until March 30, 2022. Therefore, the MSDE finds a violation with respect to Allegation #1d.

Based on Findings of Fact #15, there is documentation that the family was provided with quarterly progress reports. Therefore, the MSDE does not find a violation with respect to Allegation #2.

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.¹ 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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

Student-Specific

By October 1, 2022, the MSDE requires the MCPS to provide documentation that the IEP team has convened and determined whether the violation related to the lack of documentation of provision of services on student's IEP and the lapse in implementation of the reading intervention class 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 MSDE requires the MCPS to provide documentation by October 1, 2022, that the student received the services on both of his 2021-2022 IEPs. The documentation must include a schedule and service provider reflecting the specialized instruction or related services that were provided.

The MCPS must ensure that the parents are 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.

¹ 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.

² 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.

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School-Based

By December 1, 2022, MCPS must also provide professional development for the staff at [REDACTED] School on aligning present levels, MCCRS, and drafting measurable IEP goals and objectives. Evidence of this professional development must be provided to the MSDE following the implementation.

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/tg

c: Monifa McKnight
Diana Wyles
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Tracy Givens