



September 2, 2022

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Dr. Tia McKinnon
Director of Special Education
Charles County Public Schools
P. O. Box 2770
La Plata, Maryland 20646

RE: [REDACTED]
Reference: #23-003

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 July 12, 2022, the MSDE received a complaint from Ms. Kate Rabb, hereafter, “the complainant,” on behalf of 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 above-referenced student.

The MSDE investigated the following allegations:

1. The CCPS did not ensure that the student was provided with the specialized instruction, related services and support required by the Individualized Education Program (IEP) during the 2021-2022 school year in accordance with 34 CFR §§300.101 and .323. Specifically, it was alleged that:
 - a. The student was not provided with modified workload/assignments, adult support; social skills training, daily communication log, and reading intervention pursuant to his IEP;
 - b. The student was not provided with specialized instruction pursuant to his IEP;
 - c. The student was not provided with speech and language services pursuant to his IEP; and
 - d. The student and staff were not provided with assistive technology training, pursuant to his IEP.

2. The CCPS did not ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2021- 2022 school year, in accordance with 34 CFR §§300.320 and .323.
3. The CCPS did not ensure that the IEP team reviewed and revised, as appropriate, the student's IEP to address the lack of expected progress toward achieving his IEP goals, during the 2020-2021 school year, in accordance with 34 CFR §§300.101 and .324.
4. The CCPS did not ensure that the student's IEP contains a transition plan based on age-appropriate assessments during the 2020-2021 school year, in accordance with 34 CFR §300.320.
5. The CCPS did not ensure that the proper procedures were followed when responding to a request to inspect and review the student's educational record, in accordance with 34 CFR §300.613.

BACKGROUND:

The student is fifteen (15) years old and is identified as a student with Autism under the IDEA. The student attends ██████████ School. He has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: IMPLEMENTATION OF THE STUDENT'S IEP

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021-2022 school year was developed on December 9, 2020. The IEP reflects that the student requires a daily phonics intervention, weekly social skills training, twenty (20) hours per week of specialized instruction, and thirty (30) minutes per week of speech and language therapy.
2. The December 9, 2020 IEP does not reflect that the student requires a modified workload/assignment, adult support, communication log, or assistive technology training.
3. On November 10, 2021, the IEP team determined that the student requires daily "altered/modified assignments, phonics instruction", weekly social skills training, 18.75 hours per week of specialized instruction, and thirty minutes per week of speech and language therapy. The student's IEP further requires direct support of an instructional aid to assist "him in accessing the curriculum", daily intensive case management that includes daily communication with the parents regarding academic and behavioral data, and assistive technology training as needed.
4. There is documentation that the student received specialized instruction from the start of the 2021-2022 school year until February 7, 2022. There is no documentation that the student received specialized instruction as required by his IEP for quarters three and four.
5. There is documentation that the student received speech and language services during the 2021 - 2022 school year as required by his IEP.

6. There is no documentation that the student received modified workload/assignments, adult support, social skills training, daily communication log, and reading intervention as required by his IEP during the 2021-2022 school year.
7. There is no documentation that assistive technology training was needed as required by the student's IEP during the 2021-2022 school year.

DISCUSSION/CONCLUSIONS:

Based upon the Findings of Facts #1, 3, and #4, the MSDE finds that the CCPS has ensured that the student was provided with the specialized instruction required by the IEP during the first and second quarter of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and 323. Therefore, this office does not find that a violation occurred with respect to the provision of specialized instruction from the start of the 2021-2022 school year until February 7, 2022.

Based upon the Findings of Facts #1, #3, and #4, the MSDE finds that the CCPS has not ensured that the student was provided with the specialized instruction required by the IEP during the third and fourth quarter of 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 the provision of specialized instruction from February 8, 2022 to the end of the 2021-2022 school year.

Based upon the Findings of Facts #1, #3, and #5, the MSDE finds that the CCPS has ensured that the student was provided with speech and language services 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 that a violation occurred with respect to this aspect of the allegation.

Based upon the Findings of Facts #1 - #3, #6, #7, and #9, the MSDE finds that the CCPS has not ensured that the student was provided with modified workload/assignments, adult support; social skills training, daily communication log, and reading intervention 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.

Based upon the Findings of Facts #3 and #7, the MSDE finds that the CCPS has ensured that the student was provided with assistive technology training 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 that a violation occurred with respect to this aspect of the allegation.

ALLEGATIONS #2 and #3: PROVISION OF PROGRESS REPORTS AND ADDRESSING THE LACK OF EXPECTED PROGRESS

FINDINGS OF FACTS:

8. The prior written notice generated after the November 10, 2021 IEP meeting reflects that the IEP team reviewed the student's progress to date with the parents. There is no documentation that the parent was provided with the first quarter progress reports toward achieving the annual IEP goals as required by the IEP.
9. The prior written notice generated after the June 6, 2022 IEP meeting reflects that the IEP team reviewed the report of student's progress dated February 7, 2022 with the parents. The student's

quarter three progress was “missing”. Additionally, the IEP team noted that implementation of supplementary aids and supports “has been altered.” Specifically, he has adult support “for the most part” however, at times he “is in elective classes by himself.” The case manager noted the intervention class addresses the reading intervention and the student is “offered” social skills training through “social scenarios at lunch and during [REDACTED] once it began.” There is no documentation that the parent was provided with the quarterly progress reports toward achieving the annual IEP goals for the second through the fourth quarters as required by the IEP.

10. The reports of the student’s progress dated November 10, 2021, and February 7, 2022, reflect that he was making sufficient progress to meet his academic and behavioral goals. The February 7, 2022 report of progress on the student’s “behavioral-self management” goal reflects the goal was achieved. The report of the student’s progress dated June 15, 2022, reflects that he is making sufficient progress; the description states “see amended IEP”. The amended IEP does not include data of the student’s progress towards the achievement of his IEP goals. There is no documentation of the student’s quarter three or quarter four progress towards the achievement of his IEP goals.

DISCUSSION/CONCLUSIONS:

ALLEGATION #2: PROVISION OF QUARTERLY PROGRESS REPORTS

Based upon the Findings of Facts #8 to #10, the MSDE finds that the CCPS did not ensure that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #3: ADDRESSING THE LACK OF EXPECTED PROGRESS

Based upon the Findings of Facts #8 to #10, the MSDE finds that while there was no documentation that the student was not making sufficient progress towards achieving the annual IEP goals, there were periods in which there were no reports available for the IEP team to review and that the IEP team was unable to address the student’s progress, during the 2020-2021 school year, in accordance with 34 CFR §§300.101 and 324. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #4: DEVELOPMENT OF A TRANSITION PLAN

FINDINGS OF FACTS:

11. The student’s IEP dated December 9, 2020 reflects that the student “will be in the process of completing a career cruising survey with support.” There is no documentation that the survey was completed.
12. The student’s IEP dated November 10, 2021 reflects that the student completed the “Career Cluster Interest Survey using Virtual Job Shadow” on November 1, 2021. The student replied “liked” or “definitely liked” for the majority of the questions despite prompting. The Career Interest Inventory was also attempted on November 1, 2021, however the student “did not indicate comprehension of the prompts”. Additionally, the student completed a transition interview. Due to the student’s difficulty completing the career assessments, a parent interview was sent home. There is no documentation that the parent’s completed the interview.

DISCUSSION/CONCLUSION:

Based upon the Findings of Facts #11 and #12, the MSDE finds that the CCPS did not ensure that the student's IEP contains a transition plan based on age-appropriate assessments during the 2020-2021 school year, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #5: REQUEST TO ACCESS THE STUDENT'S EDUCATION RECORD

FINDINGS OF FACTS:

13. On June 30, 2022, via email, the parent requested the student's speech and language logs from the CCPS.

14. To date, there is no documentation that the CCPS responded to the parent's request.

DISCUSSION/CONCLUSION:

Based upon the Findings of Facts #13 and #14, the MSDE finds that the CCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred with respect to 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.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.

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.

Student Specific

The MSDE requires the PGCPS to provide documentation by October 1, 2022, that the school system has taken the following actions:

- a. Provided the student with specialized instruction, modified workload/assignments, adult support; social skills training, daily communication log, and reading intervention as required by his IEP;
- b. Convened an IEP team meeting to determine the amount and nature of compensatory services or other remedy to redress the lack of provision of specialized instruction, and reading intervention, and developed a plan for the provision of those services within one year of the date of this Letter of Findings;
- c. Convened an IEP team meeting to determine whether the provision of the modified workload/assignments, adult support, social skills training, and daily communication log violations 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 remedy 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;
- d. Provided the parents with quarterly progress reports from the 2021-2022 school year;
- e. Convened an IEP team meeting to determine the student's progress for quarters three and four and whether any lack of expected progress 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 remedy 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;
- f. Responded to the complainant's request to access the student's educational record; and
- g. Completed age-appropriate transition assessments, convened an IEP team meeting to develop appropriate transition goals based upon those assessments, and determine whether this transition assessment violation 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 remedy 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 CCPS 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 the CCPS to provide documentation by October 1, 2022, of the steps taken to ensure that the staff at [REDACTED] School properly execute the requirements of the IDEA related to IEP implementation, provision of progress reports, review and revision of an IEP to address lack of progress, and age appropriate transition assessments. Please note that any documentation that is submitted relating to a

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future plan of action must be supplemented with documentation that demonstrates that the plan has been implemented and monitored, prior to the closing of the case.

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: Maria Navarro
Tia McKinnon
LeWan Jones
[REDACTED]
Alison Barmat
Gerald Loiacono
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