



Mohammed Choudhury
State Superintendent of Schools

October 4, 2023



Mr. Phillip A. Lynch
Director of Special Education
Montgomery County Public Schools
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: [REDACTED]
Reference: #24-020

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 August 9, 2023, MSDE received a complaint from Ms. [REDACTED] and Mr. [REDACTED] hereafter, “the complainants,” on behalf of their son, 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.

MSDE investigated the following allegations:

1. The MCPS did not follow proper procedures when conducting a reevaluation of the student since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.303- .306 and COMAR 13A.05.01.06.
2. The MCPS did not ensure that the Individualized Education Program (IEP) team convened to review the IEP before May 25, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
3. The MCPS has not developed an IEP that addresses the student’s identified communication, occupational therapy, and cognitive needs since the start of the 2022-2023 school year, in accordance with 34 CFR §300.324.

4. The MCPS did not ensure that the complainant was provided an appropriate report of the student's progress toward achieving the annual IEP goals that was measured as described by the IEP since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101, .320, and .323.
5. The MCPS did not provide the parent with a copy of the IEP document within five business days after the IEP team meeting on July 19, 2023, in accordance with COMAR 13A.05.01.07.

BACKGROUND:

The student is eight years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] School [REDACTED] and has an IEP that requires the provision of special education instruction.

SUMMARY OF FINDINGS AND CONCLUSIONS

In its written response, the MCPS acknowledges that violations occurred with respect to the allegations. To address the violations, the MCPS proposes the following corrective actions:

Student Specific

- Convene an IEP meeting to review and revise the IEP to ensure it addresses the student's needs; and
- Determine any negative educational impact as a result of the violations and compensatory services or another remedy to redress the violations.

School-based

- Establish a support plan for the student's school with the MCPS Central Office;
- Hire three new teachers for students in the Learning for Independence program (LFI);
- Assign an LFI Team Leader to work with administration in coordination of the program;
- Identify a date that the student's school's Professional Learning Community (PLC) will meet to ensure all teachers are knowledgeable of the program expectations and convene follow up regular PLC meetings;
- Convene monthly professional development meetings to include timelines for IEP review, provision of progress reports, and IEP goal writing for the student's school staff facilitated by the MCPS Central Office Staff; and
- Conduct a record review of similarly situated students to determine if compensatory services are warranted. If so, an IEP team meeting will be convened to discuss compensatory services.

MSDE concurs with the MCPS' conclusions and appreciates the school system's response to the investigation.

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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

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 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

In addition to the corrective action proposed above MSDE requires the MCPS to provide documentation by November 15, 2023, that the school system has taken the following additional actions:

- a. Completed the reevaluation of the student;
- b. Provided the complainant with an appropriate report of the student's progress toward achieving the annual IEP goals that was measured as described by the IEP; and
- c. Convened an IEP team meeting to review the reevaluation information and update the student's IEP.


The MCPS 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.

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. MSDE

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, 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 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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recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC/tg

c: Monifa B. Mcknight
Maritza Macias

Diane Eisenstadt
Alison Barmat
Gerald Loiacono
Tracy Givens