



December 7, 2023



Ms. Katie Buckley  
Director Special Education Instruction and Student Performance  
Frederick County Public Schools  
Specialized Programs & Supports  
191 South East Street  
Frederick, Maryland 21701

RE: [REDACTED]  
Reference: #24-045

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 September 28, 2023, October 6, 2023, and October 10, 2023, MSDE received a complaint from Ms. [REDACTED], hereafter, "the complainant," on behalf of her son. In that correspondence, the complainant alleged that the Frederick County Public Schools (FCPS) 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 FCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at IEP team meetings convened since June 2023, IEP team meeting at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9).
2. The FCPS did not provide the parent with a copy of the completed IEP document within five business days following IEP team meetings convened since June 2023, in accordance with COMAR 13A.05.01.07.
3. The FCPS did not provide the parent with prior written notice of the decision to reject her proposal to meet and revise the student's IEP goal and objects in the area of writing, in accordance with 34 CFR §300.503.
4. The FCPS did not develop an IEP that addresses the student's identified needs in the area of occupational therapy and English language arts since June 2023, in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is sixteen years old and is identified as a student with a Hearing Impairment under the IDEA. He attends ██████████ School and has an IEP that requires the provision of special education services and related services.

**FINDINGS OF FACTS**

1. The student's IEP in effect at the end of the 2022-2023 school year was created on June 2, 2023. The IEP reflects identified needs in the areas of academic communication, written expression, Health-Hearing, and Physical - Fine Motor Coordination. The IEP includes goals to address his written expression needs, as well as supplementary aids, supports, and instructional accommodations. The IEP team determined that the student required 30 minutes a week of specially designed instruction from the Teacher of the Deaf and Hard of Hearing (TDHH) and a Special Education classroom teacher outside the general education classroom to address his written expression goal, and fifteen minutes a month of specially designed instruction outside the general education classroom provided by a Special Education classroom teacher or instructional assistant to address his writing expression goal.
2. On May 26, 2023, the complainant received a draft IEP and the Occupational Therapy (OT) Independent Educational Evaluation (IEE) that the IEP team planned to discuss during a scheduled meeting on June 2, 2023.
3. On June 2, 2023, the IEP team met to conduct the student's annual IEP review, consider the Occupational Therapy IEE dated March 17, 2023, address social/emotional needs, and consider the student's eligibility for a specific learning disability.
4. The Occupational Therapy IEE reflects the student "demonstrated good, sustained attention, good task persistence, the ability to follow directions[.]" Self-correction was noted throughout the assessment, and his visual perceptual skills are a strength. The report further found that the student displays weaknesses in "working memory skills," which were inconsistent. The student's recall of information decreased from 100% to 70% when he went from a verbal response to a written one. The report recommends "1- time weekly direct outpatient occupational therapy" to help the student type from the home row, using adaptive paper, chunking information, and being allowed to verbalize answers.
5. The prior written notice (PWN) developed after that meeting reflects that the IEP team discussed the OT assessment and determined that direct services in OT were not warranted "due to the student not having significant school-based weakness which would warrant an IEP goal for OT[.]" Instead, the team agreed the student would receive consultative services and accommodations aligned with the recommendations of the IEE to address areas of weakness. The IEP team determined the student would receive support in chunking of information, access to adaptive paper verbalizing answers when appropriate, as opposed to writing or typing and repetition of directions. However, the complainant disagreed with the school-based members, asserting that the student requires direct OT services and expressed dissatisfaction with the perception that the school team was not adequately "listening to the student."
6. The IEP reflects the student receiving monthly OT consultation, support provided by supplementary aids and services, chunking of information, access to adaptive paper, verbalizing answers when appropriate, as opposed to writing or typing, and repetition of directions.
7. During the June 2, 2023, IEP team meeting, the team also discussed the student's written language abilities and developed a present level of performance in that area. At the time, the student was enrolled in ELA 10 Honors for the first semester of the school year. He earned 83% (B) in term 1 and

87% (B) in term 2 and was making progress on his annual IEP goal. The team also noted that the TDHH worked on writing skills with the student. According to the TDHH, the student “is able to hook the reader, but needs additional practice;” he “can generate relevant quotes and supporting evidence but needs additional practice in properly placing them in his writing;” and he “...continues to need support in identifying and correcting grammatical errors on capitalization and punctuation”. The student also works with the special educator to focus on “polishing and building onto grammar skills.” “Sessions are focused on punctuation, capitalization, self-check strategies. The student performed grammar corrections on both his own written works as well as teacher-generated worksheets. [He] was able to identify errors in capitalization and punctuation with 80% or greater accuracy across 3 trials. When asked to generate various sentences related to teacher-generated prompts, [the student] was able to answer the prompt fully but did miss capitalization of proper nouns on three examples and left out a comma in one. When going back to review his writing, [the student] is able to identify errors in his writing with one prompt or less.”

8. During the IEP meeting, the team reviewed the student’s current IEP goal in written language expression which reads: “Given a grade level writing prompt, a graphic organizer, and access to a computer for keyboarding, [the student] will address the prompt with appropriate purpose, task, and audience to meet 80% or higher in each domain on a teacher generated rubric.”
9. During the review of the IEP goal, the TDHH shared that the student was working on “handwriting, typing, and completing graphic organizers.” The complainant expressed that the student has a preference of working on needs relating to deafness and hard of hearing, social emotional and communication needs. The complainant expressed her need for another teacher to work on handwriting. The IEP team responded that the TDHH will be working on the writing goal as the team does not currently have data to show a social/emotional need that could be addressed by the TDHH. The FCPS proposed to conduct an assessment to identify areas of concern and need in the social/emotional domain.
10. The IEP team determined that the student’s goal for the newly developed IEP will be focused on continuing to improve the student’s skills in using graphic organizers and addressing writing prompts with appropriate purpose, style, task, and audience.
11. On June 8, 2023, following an IEP meeting held on June 2, 2023, the complainant received a copy of the completed IEP, PWN, service logs for the second half of quarter 4, and the consent for assessment from the annual meeting via email.
12. On June 9, 2023, the complainant confirmed receipt of receiving the documents in the mail; however, the complainant indicated that she did not receive the consent form<sup>1</sup>.
13. On June 12, 2023, school staff informed the parent that “Another copy of the consent form will be sent in the mail with the CART transcript.”
14. On August 3, 2023, the complainant received a "Notice of Individualized Education Program (IEP) Team Meeting" and a "Notice of Documents for Review at an IEP Meeting" for a scheduled IEP meeting to be held on August 9, 2023. The purpose of the meeting was to discuss the "MSDE Letter of Findings" and the family's concerns regarding the student's participation with the Maryland School for the Deaf (MSD) and his social/emotional/communication needs. The complainant received a copy of the "MSDE Letter of Findings" via email and mail as the documents to be discussed at the meeting; however, on August 7, 2023, the complainant informed school staff via email that she had not received “the agenda and the names who will attend the meeting.”

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<sup>1</sup> There is no documentation that the parent provided consent for the assessments recommended by the IEP team on June 3, 2023.

15. On August 8, 2023, school staff replied to the complainant stating that the meeting notice sent to her on August 3, 2023, indicated the staff who would attend and the purpose of the meeting. Staff further clarified that the only document to be considered at the meeting was MSDE Letter of Findings.
16. On August 9, 2023, the IEP team met to review and, if appropriate, revise the IEP; review the Letter of Findings from MSDE; consider the need for compensatory services; and to discuss the student's concerns and parents request to involve MSD in supporting the student.
17. During the meeting, the student and the complainant discussed concerns about the stagnation of the student's academic goals, particularly in writing. The complainant contended that the goals have remained the same for two years. The student expressed frustration, stating that the team had focused on the wrong aspects of his need. The complainant highlighted a significant score in the English language literacy assessment report from the previous year, describing the student as "proficient" or "distinguished" in writing.
18. The complainant suggested the involvement of the OT at MSD to observe the student and assess his dexterity, indicating a desire for a more comprehensive evaluation of his needs and expressed a broader concern that the student's areas of need are not being adequately considered in the development and continuation of his IEP goals. The complainant suggested that the goals were inappropriate at their inception and have not evolved to address the student's changing needs.
19. The written summary of the IEP meeting reflects that due to the meeting taking place in August 2023, not all members of the students' upcoming team were in attendance. The IEP team proposed scheduling another meeting. The purpose of this subsequent meeting would be to address and review the student's and the parent's concerns related to the IEP goals once the school year had commenced.
20. On August 17, 2023<sup>2</sup>, the complainant received the CART Transcript, IEP Meeting Notes, another copy of the Release of Information for MSD to receive the OT reports, and the IEP meeting recording, from the IEP meeting held on August 9, 2023, via email.
21. There is documentation that the FCPS has attempted, unsuccessfully, to schedule a meeting to discuss the complaint's concerns related to the student's ELA and occupational therapy needs since the start of the 2023-2024 school year.

### **CONCLUSIONS:**

#### **Allegation #1: Provision of IEP Document to be Discussed Prior to an IEP Meeting**

Based on Findings of Facts #2, #14, and #15, MSDE finds the FCPS did ensure since June 2023, that the parent was provided with accessible copies of each document the IEP team planned to discuss at IEP team meetings at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9). Therefore, this office finds that a violation has not occurred with respect to this allegation.

#### **Allegation #2: Provision of Completed IEP Document Five Days After an IEP Team Meeting**

Based on Findings of Facts #11- #13 and #20, MSDE finds the FCPS did provide the parent with a copy of the

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<sup>2</sup> From June 12, 2023, to August 14, 2023, FCPS schools and offices operated on an extended 4 day work week, Monday thru Thursday, (closed Fridays).

completed IEP document within five business days following IEP team meetings convened since June 2023, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation has not occurred with respect to this allegation.

**Allegation #3: Provision of Prior Written Notice of the IEP Team Decisions**

Based on Findings of Facts #16- #20 and #21, MSDE finds the FCPS did provide the parent with prior written notice of the decision to reject her proposal to meet and revise the student's IEP goal and objects in the area of writing, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation has not occurred with respect to this allegation.

**Allegation #4: IEP that Addresses the Student's Needs**

Based on Findings of Facts #3-#10, MSDE finds the FCPS did develop an IEP that addresses the student's identified needs in the area of occupational therapy and English language arts since June 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation has not occurred with respect to this allegation.

**TIMELINE:**

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

Sincerely,

Antoine Hickman, Ed.D.  
Assistant State Superintendent  
Division of Early Intervention/Special Education Services

AH/sj

c: Cheryl L. Dyson  
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