



December 15, 2023

Ms. Briana Urbina, Esquire
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6801 Kenilworth Avenue, Suite 200
Riverdale Park, Maryland 20737

Ms. Audrey Ellis
Director of Special Education
St. Mary's County Public Schools
23160 Moakley Street
Leonardtown, Maryland 20650

RE: [REDACTED]
Reference: #24-053

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 October 23, 2023, MSDE received a complaint from Ms. Briana Urbina, hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the St. Mary's County Public Schools, (SMPCS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. SMPCS has not followed proper procedures when responding to requests to access the student's educational records since October 2022, in accordance with 34 CFR §300.613.
2. SMPCS did not ensure that the Individualized Education Program (IEP) addressed the student's identified behavioral and social/emotional needs since October 2022, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 17 years old and attends [REDACTED]. He is identified as a student with a Specific Learning Disability under the IDEA and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On October 31, 2022, the IEP team met for the purpose of conducting the student's annual review meeting. The IEP reflects communication, math problem solving, and reading comprehension as

areas impacted by the student's disability. The IEP reflects that the student will receive seven hours and fifteen minutes of classroom instruction inside of the general education classroom per week and three hours forty-five minutes of classroom instruction outside the general education classroom per month. The IEP requires a thirty-minute speech/language session monthly as a related service inside of the general education setting.

2. The prior written notice (PWN) developed as a result of the annual review on October 31, 2022, reflects the team reviewed present level, goals, supplementary aids, services, and supports, and the transition plan. The team agreed to add the following instructional supports: alternative ways for students to demonstrate learning and use of an agenda book.
3. On September 25, 2023, the parent emailed SMCPSS requesting a copy of an incident report regarding an event that occurred on September 19, 2023. SMCPSS called the parent and informed her that the school did not "have incident reports that would come from the school SRO." The parent was provided with the name of the school resource officer (SRO) and informed the SMCPSS that she will be in contact with the SRO.
4. On October 13, 2023, the IEP team met for the purpose of conducting the student's annual review meeting. The IEP reflects communication, math problem solving, and reading comprehension as areas impacted by the disability. The IEP reflects two hours of specialized classroom instruction inside of the general education classroom per week. The IEP requires a thirty-minute monthly speech/language session as a related service outside of the general education setting.
5. The PWN developed as a result of the annual review on October 13, 2023, reflects the team proposed, and agreed to, change speech service from inside the general education classroom to outside of the general education classroom. The team discussed concerns with the student's increased level of distractibility due to use of his cell phone.
6. The complainant was requesting a disciplinary referral form for another student, for which the student in this case was the victim. The SMCPSS high school disciplinary referral is used when a student is engaged in an incident. The form does not capture any identifying information of the victim(s). The form requires the following information: reasons for referral, site of incident, action(s) taken prior to referral, description of incident/comments, who else was involved in the incident (peer, staff, teacher, substitute, other, N/A) and student motivation. The form also reflects a section to be completed by an administrator to identify action(s) taken.
7. There is no documentation of behavioral/social emotional concerns for the student since November 2022.

DISCUSSION/CONCLUSIONS:

ALLEGATION #1:

ACCESS TO STUDENT RECORDS

Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing, or resolution session, and in no case more than 45 days after the request has been made.

Based on Findings of Facts #5, #6, and #9, MSDE finds that the SMCPSS followed proper procedures when responding to requests to access the student's educational records since October 2022, in accordance with 34 CFR §300.613. Since the requested documents were not part of the student's records, the SMCPSS

provided the parent with information of how she can access the records. Additionally, since the student was not the offender, the SCMPS referral did not include personally identifiable information to the student. Therefore, this office finds that a violation did not occur with respect to this allegation.

ALLEGATION #2: SOCIAL EMOTIONAL NEEDS

In developing each child's IEP, the IEP team must consider the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 34 CFR § 300.324.

There is no documentation from the parent, the complaint, or the IEP team of any concerns with the student's social-emotional needs. Therefore, this office finds that a violation did not occur with respect to this allegation. Based on Findings of Facts #1, #2, #4, #5, and #7, MSDE finds that there is no documentation that the student has behavioral and social emotional needs for the SM CPS to address since October 2022, in accordance with 34 CFR §300.324. .

CORRECTIVE ACTIONS/TIMELINES:

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:ra

c: Mrs. Audrey Ellis, Superintendent, SMCPSS
Ms. Carrie Smith, Supervisor, SMCPSS
Ms. Cheryl Raley, Compliance, SMCPSS
[REDACTED], Principal, [REDACTED], SMCPSS
Ms. Rabiātu Akinlolu, Compliance Investigator, MSDE
Dr. Paige Bradford, Chief, Specialized Instruction, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE