

February 2, 2024

[REDACTED]

Ms. Chris Wittle  
Director of Special Education  
125 North Court Street  
Westminster, Maryland 21157

RE: [REDACTED]  
Reference: #24-097

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 December 6, 2023, MSDE received a complaint from [REDACTED] hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Carroll County Public Schools (CCPS) 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 CCPS did not follow proper procedures when conducting an evaluation of the student since the start of the 2023-2024 school year, in accordance with 34 CFR §300.303-.311.
2. The CCPS has not consistently provided the student with specialized instruction, counseling services, copy of student/teacher notes, assistance with organization, reduced amount of assignments, chunking of assignments, prompts to turn in assignments, check in/out, and use of a flash pass, as required by the Individualized Education Program (IEP) since December 16, 2022, in accordance with 34 CFR §§300.101 and .323.
3. The CCPS did not provide the parent with proper written notice of the IEP team's decisions from the IEP team meeting on October 25, 2023, in accordance with 34 CFR §300.503.

**BACKGROUND:**

The student is sixteen years old and is identified as a student with an Other Health Impairment (OHI) under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education services.

**FINDINGS OF FACTS:**

1. The student's IEP in effect at the start of the 2023-2024 school was developed on December 15, 2022. The IEP reflects that the student's most recent evaluation date was December 10, 2020, and the "projected evaluation date" was December 9, 2023. The IEP requires (2) fifteen-minute sessions per week of specialized instruction in the general education setting to organize materials, discuss goal progress, and review assignments due; one hour per week of specialized instruction in the general education setting to address self-management goals; and one hour per month of counseling services outside of the general education setting. The IEP further requires the provision of student/teacher notes, assistance with organization to include class binders/materials and due dates, reduce amount of assignments to prove mastery, chunking of assignments, prompts to turn in the assignments, check-in/check-out, and the use of a flash pass to counselor as needed.
2. On October 25, 2023, the IEP team met to re-evaluate the student. The Prior Written Notice (PWN) generated after the IEP team meeting reflects that the IEP team reviewed parent input, general education teacher's input, special education teacher's input, mental health therapist input, previous progress reports, past and current classroom grades, current IEP, and the December 2020 psychological evaluation. The IEP team considered and rejected conducting intellectual, cognitive, and academic assessments. The IEP team determined that there was sufficient data from recent cognitive testing, the student has no adverse academic impact, the student does not require academic IEP goals, and is accessing the grade level curriculum. The IEP team considered and recommended conducting a social emotional assessment and a classroom observation. The IEP team determined additional data was needed to determine the student's present levels in the areas of her identified disability of OHI and current performance during instruction.  
  
The parent expressed concerns regarding the student losing special education services after the meeting and that the student did not receive services during the first year at [REDACTED]. The CCPS team explained that the current IEP services will continue during the re-evaluation and "disagreed with the parent's assertion" regarding the provision of services.
3. On November 1, 2023, the CCPS staff sent the parent the Notice and Consent for Assessments home with the student.
4. On November 28, 2023, the CCPS administrator and staff member met with the complainant to obtain consent for the assessments. The complainant declined to provide consent and notified the CCPS staff of her State complaint.
5. On December 6, 2023, the IEP team met to complete the re-evaluation of the student and review and revise the IEP. The PWN generated after the IEP team meeting reflects that the complainant proposed that the IEP team meeting not proceed due to the pending State complaint. The IEP team agreed to reschedule the meeting due to the complainant's refusal to participate.
6. On January 23, 2024, the IEP team met to complete the re-evaluation of the student and review and revise the IEP. The PWN generated after the IEP team meeting reflects that the IEP team proposed to conduct assessments in the areas of social emotional/behavioral functioning and classroom observation. The IEP team considered whether the student continues to meet the eligibility criteria

to receive special education services as a student with OHI due to Attention Deficit Hyperactivity Disorder (ADHD). The IEP team reviewed input from the general and special educator, parent, mental health therapist, reviewed progress on annual IEP goals, first quarter report card grades, MCAP scores, Algebra I common assessment score, and 2020 WIAT mathematics scores. The complainant previously declined consent for the assessments but provided consent during the IEP team meeting. The complainant requested an Independent Educational Evaluation (IEE) due to her belief that the CCPS team will produce biased reports. The CCPS staff shared the complainant's request for an IEE with the CCPS Office of Special Education. The complainant shared that based on the student's MCAP scores, she is not proficient in math. The IEP team discussed that mathematics is not an academic area currently addressed in the student's IEP, the student's final Algebra I grade was a B, the student scored higher than the class and school average on the Algebra I final exam, she scored proficient on the Algebra I MCAP, and her 2020 WIAT mathematics scores were average. The IEP team considered, but rejected, conducting assessments in the area of mathematics. The IEP team agreed the student continues to be eligible to receive special education services as a student with OHI pending the outcome of the reevaluation. The IEP team further agreed to continue implementing the student's December 15, 2022, IEP.

7. There is documentation that the student was provided with specialized instruction, counseling services, assistance with organization, prompts to turn in the assignments, check-in/check-out, and the use of a flash pass since December 16, 2022, as required by the IEP.
8. While there is some documentation that the student was provided with a copy of student/teacher notes, reduced amount of assignments, and chunking of assignments, since December 16, 2022, there is no documentation that it was consistently provided as required by the IEP.
9. There is documentation that the parent was provided with proper prior written notice of the IEP team's decisions from the IEP team meeting on October 25, 2023.

### **DISCUSSION/CONCLUSIONS:**

#### **Allegation #1:**

#### **Evaluation Procedures**

Evaluation procedures must be individualized to meet the child's current needs, and formal assessment data is not required if the IEP team finds there is enough data to determine the student's eligibility and educational needs (34 CFR §300.305).

The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student is classified. The eligibility determination must be made on an individual basis and be based on the student's specific needs. The IEP team must review the evaluation data, and based on that data, determine whether the student meets the criteria for identification as a student with a disability under the IDEA (COMAR 13.A.05.01.06).

When conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety (90) days of the date the team determines that assessments are required (COMAR 13A.05.01.06E).

Based upon the Findings of Facts #1 to #6, MSDE finds that the CCPS did follow proper procedures when conducting a re-evaluation of the student since the start of the 2023-2024 school year, in accordance with 34 CFR §300.303-.311. Therefore, this office finds that a violation did not occur with respect to the allegation.

**Allegation #2:** **Provision of specialized instruction, counseling services, copy of student/teacher notes, assistance with organization, reduce amount of assignments, chunking of assignments, prompts to turn in assignments, check in/out, and use of a flash pass**

Based upon the Findings of Facts #1 and #7, MSDE finds that the CCPS has consistently provided the student with specialized instruction, counseling services, assistance with organization, prompts to turn in the assignments, check-in/check-out, and use of a flash pass as required by the IEP since December 16, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based upon the Findings of Facts #1 and #8, MSDE finds that the CCPS has not consistently provided the student with student/teacher notes, reduced amount of assignments, and chunking of assignments, as required by the IEP since December 16, 2022, 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.

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

Based upon the Findings of Fact #9, MSDE finds that the CCPS did provide the parent with proper written notice of the IEP team's decisions from the IEP team meeting on October 25, 2023, in accordance with 34 CFR §300.503.PWN. Therefore, this office finds that a violation did not occur with respect to the allegation.

#### **ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

The public agency must ensure that the child's IEP is reviewed periodically, but not less than annually, to determine whether the annual goals for the child are being achieved (34 CFR §300.324).

Based upon the Findings of Facts #1 and #6, MSDE finds that the CCPS did not ensure that the IEP team convened to review the student's IEP before December 15, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did occur.

#### **CORRECTIVE ACTIONS/TIMELINES:**

The IDEA requires that State complaint procedures include 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.<sup>1</sup> 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 Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Ms. Barmat can be reached at (410) 767-7770 or by email at [Alison.Barmat@maryland.gov](mailto:Alison.Barmat@maryland.gov).

### **Student-Specific**

MSDE requires the CCPS to provide documentation by April 1, 2024, that the school system has convened an IEP team meeting to determine whether the violations identified in this Letter of Findings regarding the provision of student/teacher notes, reduce amount of assignments, and chunking of assignments, and the failure to review the IEP annually, had a negative impact on the student's ability to benefit from the education program. If the IEP 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 one 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**

MSDE requires the CCPS to provide documentation by April 1, 2024, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the timely annual review and revision of IEPs, and the provision of supplementary aids and services under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance.

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

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<sup>1</sup>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.

<sup>2</sup>MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Ms. Chris Wittle  
February 2, 2024  
Page 6

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 L. Hickman, Ed.D.  
Assistant State Superintendent  
Division of Early Intervention and Special Education Services

ALH/tg

c: Ms. Cynthia McCabe, Superintendent, CCPS  
Mr. Wayne Whalen, Supervisor of Special Education Data and Compliance, CCPS  
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE  
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Ms. Tracy Givens, Complaint Investigator, MSDE