

February 26, 2024

Ms. Kelin Betancourth
11624 Cygnet Drive
Waldorf, Maryland 20601

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

RE: Danniell Ucles
Reference: #24-113

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 28, 2023, MSDE received a complaint from Ms. Kelin Betancourth, 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.

MSDE investigated the following allegations:

1. The CCPS did not ensure that the Individualized Education Program (IEP) team convened to review the IEP before November 9, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
2. The CCPS has not ensured that the student has been consistently provided with the special education instruction required by the IEP since October 2023, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is ten years old and is identified as a student with Autism under the IDEA. The student attends Daniel of St. Thomas Jenifer Elementary School. He has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. In its written response, the CCPS acknowledges that the IEP team did not convene to review the IEP before November 9, 2023, and that the student has not been consistently provided with the special education instruction required by the IEP since October 2023.
2. On January 26, 2024, the IEP team met to conduct the student's annual IEP review. The IEP team proposed that the student would receive compensatory services four hours per day, four days a week, from July 1, 2024, to August 2, 2024, and July 1, 2025, to August 2, 2025 for missed special education services.

CONCLUSIONS:

Allegation #1: Annual IEP Team Meeting

Based upon the Findings of Fact #1, MSDE finds that the CCPS did not ensure that the IEP team convened to review the IEP before November 9, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. MSDE concurs with the CCPS' conclusions and appreciates the school system's response to the investigation.

Allegation #2: Provision of Specialized Instruction

Based upon the Findings of Fact #1, MSDE finds that the CCPS has not ensured that the student has been consistently provided with the special education instruction required by the IEP since October 2023, in accordance with 34 CFR §§300.101 and .323. MSDE concurs with the CCPS' conclusions and appreciates the school system's response to the investigation.

Notwithstanding the violation, based upon Findings of Fact #2, MSDE finds that the CCPS has convened an IEP team meeting on January 26, 2024, and determined compensatory services for the lack of provision of specialized instruction since October 2023. Therefore, no further student specific corrective action is required for this aspect of the allegation.

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.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 Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Barmat can be reached at (410) 767-7770 or by email at Alison.Barmat@maryland.gov.

School-Based

MSDE requires the CCPS to provide documentation by May 1, 2024, of the steps taken to ensure that the staff at Daniel of St. Thomas Jenifer Elementary School properly executes the requirements related to annual IEP review and provision of specialized instruction under IDEA. Steps must include professional development and ongoing monitoring. Monitoring activities must include submission of reports for ten randomly selected students with IEPs reflecting documentation that their IEP was reviewed at least annually, and the students are receiving the required services. Monitoring reports must be provided on or before May 1, 2024, July 1, 2024, September 30, 2024.

Similarly-Situated

MSDE further requires that CCPS identify all similarly situated students at Daniel of St. Thomas Jenifer Elementary School that were not provided specialized instruction during the 2023-2024 school year, convene IEP team meetings for those students to determine appropriate compensatory services and a plan to implement those services, and determine how their special education services will be provided moving forward for the remainder of the school year.

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.

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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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 Superintendent
Division of Early Intervention and Special Education Services

ALH/tg

c: Dr. Maria V. Navarro, Superintendent, CCPS
LeWan Jones, Director of Compliance, CCPS
Alison Barmat, Branch Chief, Family Dispute Resolution, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Complaint Investigator, MSDE