

May 9, 2024



Rebecca Miller
Director for Special Education
Cecil County Public Schools
201 Booth Street
Elkton, Maryland 21921

RE: [REDACTED]
Reference: #24-169

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 March 20, 2024, MSDE received a complaint from [REDACTED] and [REDACTED], hereafter, “the complainants,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Cecil 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 has not ensured that the Individualized Education Program (IEP) team addressed parental concerns regarding the student’s need for additional adult support/paraeducator since November 2023, in accordance with 34 CFR §300.324.
2. The CCPS did not provide prior written notice of the team’s decisions from the IEP team meetings held on January 12, 2024, and February 29, 2024, in accordance with 34 CFR §300.503.

BACKGROUND:

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

FINDINGS OF FACT:

1. On November 30, 2023, the IEP team convened to review, and if appropriate, revise the IEP, and discuss reevaluation. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team reviewed an articulation assessment, teacher and parent input, and progress reports. The classroom teacher shared that the student requires “a lot of support throughout the day in order to make progress.” The complainant shared that he wants the student to have a “full paraprofessional assigned to him” but agreed to discuss the matter at the next meeting.
2. On January 12, 2024, the IEP team re-convened to review, and if appropriate, revise the IEP, and discuss reevaluation. The PWN generated after the meeting reflects that the IEP team reviewed the articulation assessment, teacher and parent input, and progress reports. The complainant shared that he noticed different behaviors from the student when returning from school, his reaction to loud places, the need for a routine, the amount of academic growth, and the increase in his vocabulary. The complainants shared their concerns about next school year and the student having his needs met in the first grade classroom. They inquired as to “how [the student] could have a paraprofessional assigned just to him”. The CCPS staff explained the process to determine the student’s need for a paraprofessional and shared it would be decided before next school year.
3. On February 29, 2024, the IEP team convened to review, and if appropriate, revise the IEP. The PWN generated after the meeting reflects that the IEP team reviewed results of classroom-based assessments, progress, and teacher and parent input. The complainant shared concerns that the IEP team did not have answers to the student having access to a paraeducator and stated that if the student did not have a paraeducator assigned to him next year they will “take the process further”. The CCPS staff shared that the IEP team will review the data regarding the student’s need for a paraeducator and if the data demonstrates he requires adult support it will be added to his IEP. The school team will continue to plan how the student will be supported this school year and next school year.
4. On April 4, 2024, the IEP team convened to review, and if appropriate, revise the IEP, discuss evaluations, and determine eligibility for Extended School Year (ESY) services. The PWN generated after the meeting reflects that the IEP team reviewed progress, results of the gross motor evaluation, School Function Assessment, results of a student observation, and parent and teacher input. The IEP team determined that the student qualified for adult support due to his need for significant support throughout the day. Specified adult support was added to the student’s IEP as a supplementary aid.
5. There is documentation that the complainant was provided the PWN from the January 12, 2024, IEP team meeting via DocuSign on January 18, 2024.
6. While there is documentation that CCPS staff emailed the complainant on March 4, 2024, intending to provide the PWN from the February 29, 2024, IEP team meeting, the PWN was not attached. The PWN was provided to the complainant on March 22, 2024.

CONCLUSIONS:

Based upon the Finding of Fact #1 through #4, MSDE finds that the CCPS has ensured that the IEP team addressed parental concerns regarding the student’s need for additional adult support/paraeducator since November 2023, in accordance with 34 CFR §§300.324. Therefore, this office finds that a violation did not occur concerning the allegation.

Based upon Finding of Fact #5, MSDE finds that the CCPS did provide prior written notice of the team’s decisions from the IEP team meetings held on January 12, 2024, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

Based upon Finding of Fact #6, MSDE finds that the CCPS did not provide prior written notice of the IEP team’s decisions from the IEP team meetings held on February 29, 2024, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Notwithstanding the violation, based upon Finding of Fact #6, MSDE finds that the CCPS has provided prior written notice to the parent on March 22, 2024, therefore no further student specific corrective action is required.

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 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.² Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

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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School-Based

MSDE requires the CCPS to provide documentation by August 1, 2024, of the steps it has taken to ensure that the [REDACTED] School staff properly implements the requirements for the provision of prior written notice 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 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: Dr. Jeffrey A. Lawson, Superintendent, CCPS
Alison Barmat, Branch Chief, Family Support and Due Process, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE