

July 5, 2024

[REDACTED]

Mr. Troy Keller
Director of Special Education, Specialized Programs, & Supports
Frederick County Public Schools
191 South East Street
Frederick, Maryland 21701

RE: [REDACTED]
Reference: #24-223

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 May 3, 2024, MSDE received a complaint from [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. 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 has not ensured that the Individualized Education Program (IEP) team meetings have occurred at a mutually agreed upon time since March 2024, in accordance with 34 CFR §300.322.
2. The FCPS has not ensured that the student has been consistently provided with the testing accommodations required by the IEP since May 14, 2024, in accordance with 34 CFR §300.101 and .323.

BACKGROUND:

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

FINDINGS OF FACT:

ALLEGATION #1

SCHEDULING THE IEP MEETING AT A MUTUALLY AGREED UPON TIME

1. On February 27, 2024, FCPS central office staff emailed the complainant providing three possible dates for the IEP meeting, all before noon. The email requested a response within 72 hours with her availability and

to provide alternate meeting dates and times if she could not attend any of those presented. The email further stated that if the complainant did not respond within the required timeframe the school-based team would determine the date and time of the meeting.

2. On February 28, 2024, the complainant emailed FCPS central office staff requesting a 1:00 pm meeting.
3. On March 4, 2024, FCPS central office staff emailed the complainant offering two meeting dates and times previously provided on February 27, 2024, and a third date and time with a 1:00 pm meeting time.
4. On March 11, 2024, FCPS school-based staff emailed the complainant stating that a copy of an invitation to an IEP meeting on March 26, 2024, at 1:00 pm was attached to the email and was also mailed.
5. On March 26, 2024, the IEP team convened to review and revise the student's IEP. The Prior Written Notice (PWN) generated after the meeting reflects the complainant participated in the team's discussion including the following:
 - The student inquired about tools to help him with written English due to handwriting being required in his Advanced Placement (AP) language class.
 - The student stated that he prefers to type, and a school-based team member stated that "...per his IEP, [the student] has access to a word processor." The school-based team member stated that she could introduce the student to different pencil grips and slanted surfaces, and the student agreed. The student chose not to answer the school-based team member when she asked the student if he was getting fatigued while writing.
 - The complainant stated that "she feels the word processor accommodation is a band-aid and [the student] needs writing skills for the real world."
 - FCPS central office staff reported that the student's current IEP provides accommodations of "extended time, word processor, and checklists and rubrics".

The PWN also reflects that FCPS school-based staff "wants to confirm that [the student] is taking the online AP Language exam as he prefers to type, asks [the student] to stop by AP office to confirm."

The PWN further reflects the complainant's submitted parent input via email on March 25, 2024, that referenced the following information:

- "Occupational Therapy Evaluation - specifically of [the student's] general fine motor production compared to his written language including letter, word, sentence, and longer written tasks.
 - Response to Intervention Pre/Post Assessments - the school should provide [the student] the opportunity to complete written assignments using keyboarding to determine if there is a difference in quantity and quality of his writing."
6. On May 7, 2024, FCPS school-based staff emailed the complainant and provided three dates and times for the student's upcoming annual review meeting. The email requests the complainant to respond by May 10, 2024, at 4:00 pm to provide availability or an invitation to meet would be sent for one of the dates and times provided in the email.
 7. On May 14, 2024, the complainant emailed the FCPS school-based staff member with her preferred dates and times for the meeting.

8. On May 15, 2024, FCPS staff emailed the complainant stating that the complainant had previously informed FCPS that May 30, 2024, at 1:00 pm was a suitable time for the meeting, and a meeting invitation for that date and time was attached to the email.
9. On May 21, 2024, FCPS school-based staff emailed the complainant providing a meeting invitation to the May 30, 2024, IEP meeting at 1:00 pm along with the draft IEP.
10. On May 30, 2024, the IEP team convened to develop the student's IEP, review and revise the IEP, and consider postsecondary goals and transition services. The PWN generated after the meeting reflects the complainant participated in discussions about the following:
 - The student reported that there has been some improvement in his grades, but he can improve and pull them up.
 - The student reported that he believed he did "alright" on the AP exams but shared that "...the writing was hard (his hands were sore) and asked why he didn't have access to his word processor." FCPS school-based staff stated that "... the college board is not a Maryland school and all accommodations have to be applied for...Maryland College Board has to accept the accommodation and asked for it in advance. There are some exams that can be digital. [The student] will need to communicate that he desires this." The student asked whom he should talk to about this, and FCPS school-based staff provided the information and requested that the accommodation request be emailed and written. The PWN reflects the "team discussed future AP exams [the student] is planning for and options for those."
 - The student's father inquired why the IEP team did not communicate the accommodation to the college board and FCPS staff reported that "word processor" is listed on the student's IEP as a supplementary aid and not an accommodation.
 - The general education teacher reported the student was working to improve his grade and discussed his writing, AP classes, and AP exam scores. The complainant shared that she was seeing progress in the student's writing.

CONCLUSION:

Based on the Findings of Fact #1 to #10, MSDE finds that the FCPS has ensured that the IEP team meetings have occurred at a mutually agreed upon time since March 2024, in accordance with 34 CFR §300.322. Therefore, this office finds that no violation occurred concerning the allegation

FINDINGS OF FACT:

ALLEGATION #2

PROVISION OF TESTING ACCOMMODATIONS

11. The student's College Board eligibility letter dated November 3, 2023, reflects that the student was eligible for the following Advanced Placement (AP) exam accommodations:
 - Reading: Time and one-half;
 - Writing: Time and one-half;
 - Math: Time and one-half;
 - Listening: Time and one-half;
 - Speaking: Time and one-half;
 - Small group testing; and
 - Sign language interpreter for oral instructions only.

12. The student's IEP in place in March 2024, is dated June 2, 2023. The IEP reflects the student's primary disability as Hearing Impairment. The IEP requires the student to receive an Assistive Technology (AT) device.
- The Special Considerations and Instructional and Assessment Accommodations required by the IEP for "locally administered assessments" include:
 - Closed-captioning of multimedia passages;
 - Use of word processor (for relative weakness in handwriting);
 - ASL video for mathematics, science, and government assessment;
 - Human signer for test directions;
 - Monitor test response; and
 - Extended time (1.5x).
 - The Supplementary Aids, Services, Program Modifications, and Supports required by the IEP include:
 - Speech-to-text training for student, as needed;
 - Speech to text, daily;
 - American Sign Language (ASL) interpreters, daily;
 - Repetition of directions, daily;
 - Chromebook/virtual meeting technology, as needed; and
 - Use of technology and/or electronic word processor, daily.
 - The IEP requires 30 minutes of specialized instruction, outside of general education weekly.
13. On May 14, 2024, the student sat for an AP Language exam.
14. On March 15, 2024, the student sat for an AP History exam.
15. There is no documentation that the student received the accommodation of an electronic word processor (computer) during the AP exams on May 14, 2024, and May 15, 2024.
16. The IEP developed on May 30, 2024, reflects that the self-management goal was updated. The following areas of the IEP were continued:
- The communication and AT information;
 - The Instructional and Assessment Accommodations;
 - The Supplementary Aids, Services, Program Modifications, and Supports;
 - The special education services; and
 - The student's LRE.

CONCLUSION:

The complainant alleges that the FCPS failed to provide the student with FAPE when it did not provide the accommodation of a word processor on the student's AP Language and History exam. The public agency is responsible for providing all of the accommodations listed on the IEP for Statewide and district-wide assessments. See COMAR 13A05.01.09. However, AP exams are administered by the College Board, and the College Board makes independent decisions as to what accommodations the student will receive.

██████████
Mr. Troy Keller
July 5, 2024
Page 5

It is the view of MSDE that the public agency, consistent with the obligation to provide FAPE, is responsible for submitting accommodation requests and supporting documentation or assisting families in doing so as appropriate.

In this case, the school submitted an accommodations request on behalf of the student, and the accepted accommodations were noted in the College Board eligibility letter dated November 3, 2023. Furthermore, the AP exams were available electronically, and the IEP team communicated to the student and the family that the student only needed to confirm his preference for the electronic administration of the exam. There is no documentation that this occurred.

Based on the Findings of Fact #11 to #17, MSDE finds that the FCPS met its obligation to ensure that the student has been consistently provided with the testing accommodations required by the IEP since May 14, 2024, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation has not occurred concerning the allegation.

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

ALH/ebh

c: Dr. Cheryl L. Dyson, Superintendent, FCPS
Katie Buckley, Director of Special Education Instruction, FCPS
██████████, Principal, ██████████, FCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE