


July 19, 2024




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

RE:   
Reference: #24-233

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 21, 2024, MSDE received a complaint from , hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complaint 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 proper procedures were followed when determining the student's need for Extended School Year (ESY) services on June 6, 2023, in accordance with 34 CFR §300.106 and COMAR 13A.05.01.08.
2. The CCPS did not ensure that the student has been consistently provided with occupational therapy (OT) and speech-language services, as required by the Individualized Education Plan (IEP) since August 2023, in accordance with 34 CFR §300.101 and .323.
3. The CCPS did not develop and implement an IEP that addresses the student's identified academic and behavioral needs since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .324.

4. The CCPS did not ensure that the IEP team convened to review the student's IEP before January 2024 in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
5. The CCPS did not provide the parent with a copy of the IEP document within five business days after the IEP team meeting on February 1, 2024, in accordance with COMAR 13A.05.01.07.
6. The CCPS did not provide timely prior written notice (PWN) of the IEP team's decisions from the IEP team meetings held on February 1, 2024, in accordance with 34 CFR §300.503.
7. The CCPS did not follow proper procedures in responding to a request for an amendment of the student's educational record made on March 4, 2024, in accordance with 34 CFR §§300.618 - .620.
8. The CCPS did not respond to a request for an IEP team meeting that was made by the parent on March 13, 2024, in accordance with 34 CFR §§300.324 and .503 and COMAR 13A.05.01.08.

**BACKGROUND:**

The student is nine years old and is a student with multiple disabilities (MD) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATIONS #1 #2, #3, #4**

**EXTENDED SCHOOL YEAR, PROVISION OF SPEECH-LANGUAGE SERVICES, PROVISION OF OT SERVICES, DEVELOPMENT and IMPLEMENTATION OF AN IEP, and ANNUAL REVIEW OF IEP**

**FINDINGS OF FACT:**

1. The IEP in effect at the beginning of the 2023-2024 school year was developed on January 25, 2023.

The IEP requires the following accommodations:

- Text to Speech for ELA/Literacy Assessments, including items, response options and passages;
- Human reader/Human Signer for ELA;
- Monitor Test response; and
- Extended time (2X).

The IEP requires supplementary aids and services:

- Daily - phonics-based intervention, picture schedule, repetition of directions, paraphrase question and instruction, check for understanding, monitor independent work, provide alternative ways for students to demonstrate learning, use of manipulatives, altered/modified assignments, cooldown/calm down area, provide frequent changes in activities or opportunities for movement, reinforce positive behavior through non-verbal/verbal communication, encourage student to ask for assistance when needed, visual break card, check-in/check-up/check-out, preferential seating;
- Weekly - graphic organizer, use of word bank to reinforce vocabulary and /or when extended writing is required, home school communication;
- As needed - use of scribe for lengthy writing assignments, advance preparation for schedule changes, allow use of organizational aids;
- Social skills training; and
- Monthly - intervention report data.

The IEP reflects goals in Speech-language: receptive language, expressive language, articulation; reading phonics; visual motor; written language continent; and reading phonemic awareness.

The IEP requires special education classroom instruction inside the general education setting for seven hours and thirty minutes per week provided by the special education classroom teacher and/or instructional assistant. The IEP requires special education instruction outside of the general education setting for six hours and fifteen minutes per week provided by the special education classroom teacher, general education teacher, and instructional assistant.

The IEP requires:

- OT as a related service weekly for thirty minutes outside of the general education classroom by an Occupational Therapist or certified OTA;
  - Speech-language services weekly for 1 hour (two 30-minute sessions) per week outside of the general education classroom by a speech language pathologist (SLP) or SLP assistant; and
  - ESY for 30 minutes per week from June 26, 2023, through August 4, 2023.
2. There is documentation that the student attended the ESY program from July 10, 2023, through August 3, 2023.
  3. On November 28, 2023, the IEP team convened to address parental concerns; review a private language assessment; and review and, if appropriate, revise the IEP. The PWN reflects:
    - the parent shared private SLP will be contacted to get clarification;
    - the IEP team reviewed and accepted the private SLP assessment;
    - the IEP team reviewed classroom progress, OT and SLP shared updates;
    - reviewed present levels of performance and goals;
    - the IEP will be amended to clarify who will provide the check-in/check-up/check-out services in the absence of the current trusted adult; and
    - agreed to the annual review meeting on January 9, 2024, at 10:00 a.m.
  4. The amended IEP reflects “amendment 11/30/2023: A back-up system protocol must be in place when the check-in/out staff and [student’s] trusted adults are absent or unavailable. [Student] should be made aware of who the back-up check-in/out staff are so he knows who can go to when he is troubled or has anxiety over a situation or incident. The back-up protocol should be shared with [Student’s] parents.”
  5. There is documentation of the provision of special education instruction, supplementary aids and services, and related services, as required by the IEP from August 2023 through February 2024.
  6. On February 1, 2024, the IEP team convened for the student’s annual review meeting. The IEP requires the following accommodations:
    - Text to speech for ELA/Literacy Assessments, including items, response options and passages;
    - Human reader/human signer for ELA, monitor test response, mathematics, science, government response;
    - Speech to text, mathematics, science, government response human scribe, ELA/L constructed response;
    - Speech to text, ELA/L response human scribe, monitor test response; and
    - Extended time (1.5X).

The IEP requires supplementary aids and services:

- Daily - use of timer, allows of manipulatives, or math resources, monitor independent work, check for understanding, paraphrase questions and instruction, repetition of directions, use of word bank to reinforce vocabulary and/or when extended writing is required, posted daily schedule in classroom, writing resources and supports, chunking of text(s), reduce ELA assignments missed due to intervention, Phonics intervention, one folder for unfinished work, visual card, check-in/mid-day check in/check-out program, encourage student to ask for assistance when needed, reinforce positive behavior through non-verbal/verbal communication, provide frequent changes in activities or opportunities for movement, calming center in classroom, preferential seating;
- Weekly - explicit reminders to turn in homework, library book, permission slips;
- As needed - provide alternative ways for students to demonstrate learning, dictation of response, advance preparation for schedule changes, Home-school communication;
- Social skills training; and
- Monthly intervention data report.

The IEP reflects goals in reading fluency, reading phonics, speech and language articulation, speech and language expressive language, speech and language receptive language, written language mechanics, self-management, and visual motor.

The IEP requires:

- special education classroom instruction inside the general education setting for one hour and thirty minutes per week; and
- special education instruction outside of the general education setting for one hour per week;
- OT as a related service weekly for thirty minutes outside of the general education setting by an OT or certified OTA;
- speech language services weekly for three hours (six 30-minute sessions) per month outside of the general education setting by an SLP or SLP assistant; and
- ESY during the summer of 2024.

7. On May 2, 2024, the IEP was amended to reflect the following:

- “IEP planning for emergency conditions: [Student] will receive for individual 30-minute sessions a month of speech therapy outside of the general education setting with at least two additional 30-minute sessions a month of speech therapy occurring within the general education classroom. [Student's] parents have declined virtual services as he struggles in the virtual learning environment. Services will be provided through in person instruction as available.”
- The IEP requires special education classroom instruction inside the general education setting for three hours and ten minutes per week provided by the special education classroom teacher and/or instructional assistant.
- The IEP requires special education classroom instruction inside the general education setting for one hour and forty minutes per week provided by the special education classroom teacher, general education teacher, guidance counselor, and/or instructional assistant.
- The IEP requires special education instruction outside of the general education setting for three hours and forty-five minutes per week provided by a special education classroom teacher, general education teacher, and/or instructional assistant.

8. On May 16, 2024, the IEP team amended the student's IEP to add receptive and expressive language and articulation objectives.
9. There is documentation of the provision of special education instruction, and supplementary aids and services, as required by the IEP from February 2024 through June 2024.
10. The speech-language service log reflects that the student was consistently provided with services from February 2024 through June 2024, as required by the IEP.
11. The OT service log reflects that the student was not consistently provided with services since August 2023, as required by the IEP.

**CONCLUSIONS:**

**ALLEGATION #1 EXTENDED SCHOOL YEAR**

In this case, the complainant alleges that the student was not determined eligible for ESY. The student's January 25, 2023, IEP requires ESY services for ESY 2023 and the student attended.

Based on the Finding of Fact #1 and #2, MSDE finds that the student was determined eligible for ESY for 2023, in accordance with 34 CFR §300.106 and COMAR 13A.05.01.08. Therefore, this office does not find a violation occurred with concern to the allegation.

**ALLEGATION #2 PROVISION OF SPEECH-LANGUAGE AND OT SERVICES**

**Provision of Speech-Language Services**

Based on the Findings of Fact #1, #5, #6, and #10, MSDE finds that the CCPS has ensured that the student has been consistently provided with Speech-Language services, as required by the IEP since the beginning of the 2023-2024 school year, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this violation.

**Provision of OT Services**

Based on the Findings of Fact #1, #6, and #11, MSDE finds that the CCPS has not ensured that the student has been consistently provided with OT services, as required by the IEP from February 2024 through March 2024, in accordance with 34 CFR §§300.101.323. Therefore, this office finds that a violation occurred concerning this violation.

**ALLEGATION #3 DEVELOPMENT AND IMPLEMENTATION OF IEP**

Based on the Findings of Fact #1 through #8, MSDE finds that the CCPS developed and implemented an IEP that addresses the student's identified academic, and behavioral needs since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation did not occur concerning this violation.

**ALLEGATIONS #5 and #6**

**PROVISION OF IEP THE DOCUMENT AND OF PWN**

**FINDINGS OF FACT:**

12. There is documentation that the PWN developed on February 1, 2024, was provided to the complainant on July 1, 2024.
13. There is documentation that the IEP developed on February 1, 2024, was provided to the complainant on April 28, 2024.
14. There is documentation that the PWN and IEP developed on May 16, 2024, was provided to the complainant on May 22, 2024.

**CONCLUSIONS:**

**Provision of the IEP Document**

Based on the Finding of Fact #13, MSDE finds that the CCPS did not provide the parent with a copy of the IEP document within five business days after the IEP team meeting on February 1, 2024, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning this violation.

**Provision of the PWN**

Based on the Finding of Fact #12, MSDE finds that the CCPS did not provide timely prior written notice (PWN) of the IEP team's decisions from the IEP team meetings held on February 1, 2024, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred concerning this violation.

Notwithstanding, based on Findings of Fact #13 and #14, MSDE finds that on July 12, 2024, the CCPS emailed the PWN and IEP developed on February 1, 2024, to the complainant. Therefore, no further student corrective action is required.

**ALLEGATION #7**

**REQUEST TO AMEND RECORD**

**FINDING OF FACT:**

15. There is no documentation of a request to amend the student's record from the complainant.

**CONCLUSION:**

Based on the Finding of Fact #15, MSDE finds a request to amend the student's record was not submitted to the CCPS. As a result, the CCPS was not required to amend the record, in accordance with 34 CFR §§300.618 - .620. Therefore, this office finds that a violation did not occur concerning this violation.

**ALLEGATION #8**

**REQUEST FOR IEP MEETING MARCH ON 13, 2024**

**FINDING OF FACT:**

16. There is no documentation of a request for an IEP team meeting made by the complainant on March 13, 2024.

**CONCLUSION:**

Based on the Finding of Fact #16, MSDE finds that there is no documentation of a request for an IEP team meeting made by the complainant on March 13, 2024. As a result, the CCPS was not required to provide a response regarding an IEP team meeting in accordance with 34 CFR §§300.324 and .503 and COMAR 13A.05.01.08. Therefore, this office finds that a violation did not occur concerning this violation.

**CORRECTIVE ACTION AND TIMELINE:**

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 noncompliance 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 Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.<sup>[2]</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

**Student-Based**

MSDE requires the CCPS to provide documentation by September 1, 2024, that the CCPS has convened an IEP team meeting and determined if the violation concerning the provision of OT services, had a negative impact on the student's ability to benefit from the educational program. If the 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 a year of the date of this Letter of Findings.

The CCPS must ensure that the parent is provided with prior 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.

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

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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.

correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason 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/ra

c: Dr. Maria Navarro, Superintendent, CCPS  
Kevin Lowndes, Chief, Office of Teaching and Learning, CCPS  
LeWan Jones, Director of Special Education Compliance, CCPS  
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