

November 20, 2024



Dr. Kendy Anderson Director, Special Education **Calvert County Public Schools** 1305 Dares Beach Road Prince Frederick, Maryland, 20678

> Re: Reference: #25-076

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 on the final results of the investigation.

ALLEGATIONS:

On September 25, 2024, MSDE received a complaint from Ms. Jessica Atkisson hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Calvert County Public School System (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the allegations:

- 1. The CCPS has not developed and implemented an Individualized Education Program (IEP) that addresses the student's academic, and social/emotional/behavioral needs, since September 2023, in accordance with 34 CFR §§ 300.101 and .324.
- 2. The CCPS has not ensured that the student has been consistently provided with the supplementary aids and services required by the IEP since September 2023, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is 15 years old and is a student with Autism under the IDEA. She attends and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

The IEP in effect in September 2023, was developed on May 11, 2023, and amended on September 4, 2023. The IEP reflects the following areas, are impacted by her disability: math calculation, math problem solving, written language expression, and self-management. The IEP requires goals to address math calculation, math problem solving, written language expression, self-management, and secondary transition (employment, education/training. The Present Levels of Academic Achievement and Functional Performance (PLAFFP) reflect parent input and how her disability impacts the student's involvement in the general education classroom.

The IEP requires the following instructional and assessment accommodation features:

- calculation device and mathematical tools (on calculation and non-calculation sections of the mathematics assessments);
- monitor test response; and
- extended time (2X).

The IEP requires the following supplementary aids, services, program modifications and supports:

- Weekly prompt to turn in work, reduce workload to increase mastery, provide alternative ways for students to demonstrate learning, break down assignments into smaller units;
- Daily prompts for redirection to task, teacher prompting, check out system to provided academic support, provide assistance with organization, Strategies to initiate and sustain attention;
- Other graphic organizers (as needed for reading and writing assignments), use of a timer for academic tasks (as needed), Small group instruction to reteach and to provide additional guided practice (as needed), Strategies for reducing anxiety support in the school setting (as needed);
- Periodically- positive reinforcement, crises intervention, advance preparation for schedule changes, crisis pass; and
- Once- tour of high school.

The IEP requires three hours per week of special education instruction inside the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant. The IEP requires three hours and forty-five minutes per week of special education instruction outside of the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant.

The IEP reflects the least restrictive environment (LRE) is inside the general education setting more than 80%.

2. The IEP, developed on December 7, 2023, continues to reflect the following areas that are impacted by the student's disability: math calculation, math problem solving, written language expression, and self-management.

The IEP requires instructional and assessment accommodation features:

- calculation device and mathematical tools (on non-calculation sections of the mathematics assessments);
- monitor test response; and
- extended time (2X).

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The IEP requires the following supplementary aids, services, programs modifications and supports:

- Weekly prompt to turn in work, reduce workload to increase mastery, provide alternative ways for students to demonstrate learning, break down assignments into smaller units;
- Daily prompts for redirection to task, teacher prompting, check out system to provided academic support, provide assistance with organization, strategies to initiate and sustain attention;
- Other graphic organizers (as needed for reading and writing assignments), use of a timer for academic tasks (as needed), small group instruction to reteach and to provide additional guided practice (as-needed), strategies for reducing anxiety support in the school setting (as needed);
- Periodically- positive reinforcement, crises intervention, advance preparation for schedule changes, crisis pass.

The IEP requires three hours per week outside of the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant.

The IEP reflects the least restrictive environment (LRE) is inside the general education setting more than 80%.

April 26, 2024, amended IEP

The amended IEP reflects the IEP no longer required the provision of a calculation device and mathematical tools (on calculation and non-calculation sections of the mathematics assessments), as an accommodation.

August 26, 2024, amended IEP

The amended IEP includes social-emotional/behavioral as an area affected by the student's disability.

The amended IEP requires the additional instructional and assessment accommodation feature: calculation device and mathematical tools (on NON-Calculation sections of the mathematics assessments).

The amended IEP further requires additional supplementary aids, services, programs modification and support daily: preferential seating with laptop monitoring daily.

- 3. There is no documentation of the provision of instruction, supplementary aids, and accommodations be provided from September 2023 through June 2024, the end of the 2023-2024 school year.
- 4. There is documentation of the provision of instruction and supplementary aids, services, programs modifications and support, and accommodations as required by the IEP since the beginning of the 2024-2025 school year.

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CONCLUSIONS:

Allegation #1

Developed and Implemented an IEP

Based on Findings of Fact #1 and #2, MSDE finds that the CCPS has developed an IEP that addresses the student's identified academic, and social/emotional/behavioral needs since September 2023, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Based on Finding of Fact #3, MSDE finds that the CCPS has not implemented the student's IEP from September 2023 through June 2024, the end of the 2023-2024 school year in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Based on Findings of Fact #1, #2, and #4, MSDE finds that the CCPS has implemented the student's IEP since the beginning of the 2024-2025 school year in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Allegation #2 Provision of Supplementary Aids, and Services

Based on Findings of Fact #1, #2, and 3, MSDE finds that the CCPS has not ensured that the student has been consistently provided, supplementary aids and services, as required by the IEP from September 2023 through the end of the 2023-2024 school year in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred concerning this aspect of the violation allegation.

Based on Findings of Fact #1, #2, and #4, MSDE finds that the CCPS has ensured that the student has been consistently provided with supplementary aids and services, as required by the IEP since the beginning of the 2024-2025 school year in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the violation allegation.

CORRECTIVE ACTION AND TIMELINES:

The IDEA requires that State complaint procedures include those for 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 timeframes below to ensure that noncompliance is corrected in a timely manner. 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. ² Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

¹The 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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Student-Specific

MSDE requires the CCPS to provide documentation by January 15, 2025, that it has convened an IEP team meeting to determine the amount and nature of compensatory services or other remedies to address the failure to provide special education and related services as required by the IEP 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 parents are provided with written notice of the team's decisions. The parents maintain 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 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 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. Andrae Townsel, Superintendent, CCPS

, Principal, , CCPS

Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE Nicole Green, Compliance Specialist, MSDE Tracy Givens, Section Chief, Dispute Resolution, MSDE Rabiatu Akinlolu, Compliant Investigator, MSDE