

December 5, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]

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

RE: [REDACTED]  
Reference: #25- 096

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 October 7, 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 Charles County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The CCPS did not ensure that the student was comprehensively assessed in all areas of need when evaluating the student to determine if the student is a student with a disability requiring special education services since August 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06. Specifically, the complainant alleges that the student was not comprehensively assessed in all areas of need, including occupational therapy (OT) and autism.
2. The CCPS did not ensure that the Individualized Education Program (IEP) was developed within the required timelines since August 2024, in accordance with 34 CFR § 300.323 and COMAR 13A.05.01.08A(1).
3. The CCPS has not developed an IEP that addresses the student’s feeding, assistive technology (AT), speech-language, and behavior needs since August 2024, in accordance with 34 CFR §§ 300.101 and .324.

4. The CCPS did not ensure that the student's teacher had access to the student's IEP, which has resulted in support and services not being provided since August 2024, in accordance with 34 CFR §§ 300.101 and .323.
5. The CCPS did not provide the complainant with a copy of the IEP document within five business days after the IEP team meeting on September 13, 2024, in accordance with COMAR 13A.05.01.07.

**BACKGROUND:**

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

**FINDINGS OF FACT:**

1. On August 3, 2023, the student was privately assessed for speech-language. The "Speech Therapy Initial Evaluation" reflects the recommendation of speech-language therapy to address expressive language deficits and apraxia of speech.
2. On August 18, 2023, the student was found eligible for an Individualized Family Service Plan (IFSP) for a developmental delay.
3. On October 27, 2023, the student was privately assessed. The "Developmental Evaluation" reflects that the student has "mild to moderate symptoms of autism." It is further reflected that based on "historical data, additional information provided by his mother, observational data, and his score on the [Childhood Autism Rating Scale] CARS-2, [the student] meets [Diagnostic and Statistical Manual of Mental Health Disorder] DSM5 criteria for a diagnosis of autism spectrum disorder."

The private "Developmental Evaluation" further reflects recommendations including:

- Special education services;
  - An IEP with a qualifying disability of autism;
  - Special education services ideally in a small group setting with similarly situated students;
  - Speech-language therapy;
  - Occupational therapy; and
  - Applied Behavior Analysis (ABA) therapy.
4. On May 21, 2024, the complainant emailed the CCPS the private "Developmental Evaluation."
  5. On May 22, 2024, the IEP team convened to determine if the student qualified for special education services. The Prior Written Notice (PWN) generated following the IEP meeting reflects that the IEP team found the student eligible for services under Part B after age three as a student with a developmental delay in cognitive and social emotional development, receptive and expressive language. The PWN further reflects that the complainant shared with the IEP team that the student receives OT and ABA therapy. The complainant also shared a private speech-language assessment with the IEP team.

The PWN further reflects that the IEP team reviewed the Developmental Assessment of Young Children-2nd Edition (DAYC-2), Preschool Language Scale-5<sup>th</sup> Edition (PLS-5), clinical observation, parent/caregiver report, and a record review. The IEP team determined that the student was demonstrating a delay greater than 25% in the cognitive development, adaptive self-help development, social emotional development, receptive language, and expressive language areas.

The IEP team determined that no additional assessments were needed.

6. On July 19, 2024, the student turned three years old.
7. On September 13, 2024, the IEP team convened to review and revise the IEP. The PWN generated following the meeting reflects that the IEP team determined that:
  - Receptive and expressive language skills would be supported through "language therapy, language rich environment in the classroom by the teacher/classroom staff and supplementary aids and support" and speech-language therapy;
  - Assistive technology needs would be addressed with "visual supports given direct adult modeling, prompting, and opportunities for practice across settings and people throughout the day;"
  - Behavior needs would be addressed through supplementary aids, services, and accommodations; and
  - Feeding needs would be addressed through supplementary aids, services, and accommodations, a Mealtime Plan of Care (MPOC), and Central Mealtime team, OT, and speech-language pathologist (SLP) consultation.

The PWN further reflects that the complainant requested to change the student's primary disability to autism due to an autism diagnosis, and to add OT services to the IEP. The IEP team explained that another meeting could be scheduled to discuss the possible change of the primary disability and consideration of OT services.

There is no documentation that the IEP team re-convened to discuss the complainant's request to change the primary disability and consideration of OT services.

On October 8, 2024, the complainant was provided with the IEP and PWN.

8. The IEP developed on September 13, 2024, reflects the areas affected by the student's disability as early learning skills, physical well-being and motor development, and social foundations. The IEP requires an inclusion prekindergarten classroom, with two hours and 30-minutes daily of special education in the general education classroom and one hour monthly of speech-language services.

The IEP requires the student to be provided with AT devices and services.

The IEP requires the provision of supplementary aids, services, and accommodations:

Instructional supports:

- Daily visual timers;
- Monthly task analysis to teach new skills;
- Daily visual schedule;

- As needed small group instruction;
- Daily small student to teacher ratio;
- Daily visual supports; and
- Daily variety of modes of communication.

Program modifications:

- As needed flexible scheduling; and
- As needed altered/modified assignments.

Social/behavioral supports:

- Daily transition cues;
- Monthly Introduction to and direct teaching of new play skills;
- Daily first/then visuals and language;
- Weekly social skills training;
- As needed frequent breaks; and
- Daily reinforce positive behavior through non-verbal/verbal communication.

Physical/environmental supports:

- Daily adult feeder in the cafeteria, classroom and during any school-related activities where [the student] will be eating food or drinking starting October 1, 2024;
- Daily preferential seating;
- Daily additional time to eat while at school (e.g., lunch, snack time);
- Direct adult supervision in the cafeteria, classroom and during any school related activities where student will be eating food or drinking; and
- Daily Mealtime Plan of Care (MPOC).

School personnel/ parental supports:

- Quarterly Speech-Language Pathologist (SLP) consult; and
- Semi-annual Central Mealtime Team (OT and/or SLP Consultation).

The IEP requires goals in the areas of:

- Social Foundations Goal One: "By July 2025, given a situation where [the student] is uncertain of how to continue, he will independently request help using total communication (ex: verbal request, sign language, vocalization, visual, etc.) with 100% accuracy in 4 out of 5 trials, as measured by teacher data collection";
- Social Foundations Goal Two: "By July 2025, given visuals as needed, [the student] will demonstrate the ability to independently complete at least 5 different classroom routines that contain at least 2 steps (ex: unpack backpack and hang up coat in cubby/locker), in 80% of recorded trials, as measured by teacher data collection";
- Language and Literacy Goal One: "By July 2025, [the student] will independently follow at least 8 different one-step routine directions (across settings and people), with 100% accuracy in 80% of trials, as measured by teacher data collection";

- Language and Literacy Goal Two: “By July 2025, in the classroom and/or therapy setting, [the student] will independently use total communication strategies for a variety of pragmatic purposes (ex. request, ask for help, answer a simple question, make a simple comment, etc.) in order to communicate in the educational setting, in 4 out of 5 recorded opportunities, as measured by speech language pathologist data collections”; and
  - Language and Literacy Goal Three: “By July 2025, given a field size of at least 3 items, [the student] will accurately identify (i.e. point, touch, give, name, etc.) at least 20 different common objects/pictures found in the classroom environment with 100% accuracy in 80% of recorded opportunities, as measured by teacher data collection.”
9. On September 24, 2024, the complainant provided consent to provide the student with special education services under an IEP.
10. On October 25, 2024, the CCPS emailed the complainant reflecting that they would be adding a dedicated aide, strategies to address elopement, calming and behavior concerns, and a speech-therapy consult to the IEP.

There is no documentation that the IEP has been amended to reflect the additional services.

11. On November 12, 2024, the complainant emailed the CCPS sharing that the student would be withdrawn from CCPS.

There is no documentation that the student was withdrawn.

12. There is no documentation that the student’s teachers had access to the student’s IEP since September 24, 2024.

## **CONCLUSIONS:**

### **Allegation #1                      Comprehensively Assessed in All Areas of Need**

In this case the complainant provided a private “Developmental Evaluation” to the IEP team on May 21, 2024, and parental input on May 22, 2024, and September 13, 2024, reflecting that the student had OT needs and an autism diagnosis.

On September 13, 2024, the IEP team informed the complainant that another meeting could be scheduled to discuss the possible change of the primary disability and consideration of OT services. There is no documentation that the IEP team discussed assessments in these areas, discussed the parent provided private “Developmental Evaluation” or scheduled a follow-up email as discussed.

Based on the Findings of Fact #3 through #5, #7 and #8, MSDE finds that the CCPS did not ensure that the student was comprehensively assessed in all areas of need, specifically OT and autism, when evaluating the student to determine if the student is a student with a disability requiring special education services since August 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06. Therefore, this office finds a violation occurred concerning the allegation.

## **Allegation #2                      Development of the IEP Within the Required Timelines**

A meeting to develop an IEP for a child must be conducted within 30 days of a determination that the child needs special education and related services; and as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP (34 CFR § 300.323). In addition, the IEP team must ensure that the student's IEP is in effect on the student's third birthday (COMAR 13A.05.01.08).

In this case, the student qualified for special education services on May 22, 2024, and the IEP team agreed to develop an IEP by his third birthday. The student turned three on July 19, 2024; his initial IEP was developed on September 13, 2024. The complainant provided parental consent for initial IEP services on September 24, 2024.

Based on the Findings of Fact #2, #5 through #9, MSDE finds that the CCPS did not ensure that the IEP was developed by the student's third birthday, since July 19, 2024, in accordance with 34 CFR § 300.323 and COMAR 13A.05.01.08A(1). Therefore, this office finds a violation occurred concerning the allegation.

## **Allegation #3                      Development of the IEP**

On October 25, 2024, the CCPS emailed the complainant stating that they would be adding a dedicated aide, strategies for elopement, calming and behavior concerns, and a speech-therapy consult to the IEP. There is no documentation that these IEP services were added to the student's IEP.

Based on the Findings of Fact #5, #7, #8, and #10, MSDE finds that the CCPS has not developed an IEP that addresses the student's feeding, AT, speech-language, and behavior needs since September 13, 2024, in accordance with 34 CFR §§ 300.101 and .324. Therefore, this office finds a violation occurred concerning the allegation.

## **Allegation #4                      Access to the Student's IEP**

Based on the Finding of Fact #12, MSDE finds that the CCPS did not ensure that the student's teacher had access to the student's IEP, which has resulted in support and services not being provided since September 24, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds a violation occurred concerning the allegation.

## **Allegation #5                      Provision of IEP Documents Five Days After an IEP Team Meeting**

Based on the Finding of Fact #7, MSDE finds that the CCPS did not provide the complainant with a copy of the IEP document within five business days after the IEP team meeting on September 13, 2024, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred concerning the allegation.

### **CORRECTIVE ACTIONS AND 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 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 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. 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-Specific**

MSDE requires the CCPS to provide documentation, by January 24, 2025, that the IEP team has taken the following action:

- a. Convened an IEP team meeting to develop an IEP that includes the IEP team agreement to add a dedicated aide, strategies to address elopement, calming and behavior concerns, and a speech-therapy consult to the IEP; and
- b. Determined the amount and nature of compensatory services or other remedies to redress the violations identified in this Letter of Finding. Developed a plan for the implementation of the services within one 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.

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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, the 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.

## School-Based

MSDE requires the CCPS to provide documentation by January 24, 2025, of the steps it has taken to ensure that the [REDACTED] early childhood staff properly implements the requirements for assessing student's in all areas of suspected disabilities, development of an IEP that addresses all areas of need, the development and implementation of an initial IEP within the required timelines, provision of the IEP documents five days prior and five days after a scheduled IEP team meeting under the IDEA (COMAR if applicable). These steps must include staff development, as well as tools developed to monitor compliance. A monitoring report for 5 pre-k students must be provided to MSDE by January 24, 2025, reflecting compliance with timelines for the development and implementation of the initial IEP for students transitioning from Part C to Part B, providing IEP documents within 5 days before and after the IEP team meeting, and considering all information provided by the family. Full compliance is required.

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/sd

c: Maria Navarro, Superintendent, CCPS  
LeWan Jones, Director of Special Education Compliance, CCPS  
[REDACTED], Principal, [REDACTED], CCPS  
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
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