

December 13, 2024

[REDACTED]

Ms. Chris Wittle
Director of Special Education
Carroll County Public Schools
125 North Court Street
Westminster, Maryland 21157

Re: [REDACTED]
Reference: #25-101

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.

On October 15, 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 Carroll County Public Schools (CCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the following allegations:

1. The CCPS has not ensured that the student has been consistently provided with special education instruction, scribe, and text to speech services as required by the Individualized Education Program (IEP) since October 17, 2023, in accordance with 34 CFR § 300.101.
2. The CCPS did not provide prior written notice of the IEP team's decisions from the IEP team meetings held since October 17, 2023, in accordance with 34 CFR § 300.503.

BACKGROUND:

The student is 14 years old and is a student with multiple disabilities under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education.

ALLEGATIONS #1

SPECIAL EDUCATION INSTRUCTION, SCRIBE, AND SPEECH TO TEXT

FINDINGS OF FACT:

1. The IEP, in effect on October 17, 2023, was developed on January 9, 2023. The IEP reflects that the following areas are impacted by the student’s disability: independent living, math calculation, math problem solving, physical education, reading comprehension, reading fluency, speech-language expressive language, speech-language receptive language, written language content, fine motor, and sensory processing strategies.

The IEP requires an instructional and assessment accommodation: English Language Arts/literacy (ELA/L) response - human scribe. "[Student] is performing significantly below his peers in writing. Therefore, he requires a scribe for all written responses."

The IEP requires:

- 12 hours and 30 minutes per week of special education instruction outside the general education setting to be provided by the special education teacher, and/or instructional assistant;
- one 30-minute session of instruction in physical education per week inside the general education; and
- one 30-minute session per week outside of the general education setting per week provided by the physical education teacher.

The IEP does not require text to speech.

2. The IEP developed on February 5, 2024, and amended on February 16, 2024, reflects the following areas are impacted by the student's disability: independent living, math calculation, math problem solving, physical education, reading comprehension, reading fluency, speech-language expressive language, speech-language receptive language, written language content, fine motor, and sensory processing strategies.

The IEP requires instructional and assessment accommodation: English Language Arts/Literacy (ELA/L) response - human scribe. "[Student] is performing significantly below his peers in writing. Therefore, he requires a scribe for all written responses."

The IEP requires 14 hours per week of special education instruction outside the general education setting to be provided by the special education teacher, and/or instructional assistant. The IEP requires 30 minutes of instruction in physical education per week inside the general education setting, and one 30-minute session per week outside of the general education setting per week provided by the physical education teacher.

The IEP does not require text to speech.

3. There is documentation that the student was provided with the instruction required by this IEP.

There is documentation that the student was provided with a scribe as required by his IEP. There is no documentation to support the allegation that the scribe did not accurately record the student's responses.

The school schedule reflects the regular school day dismissal is 2:20pm. There is documentation that the student arrived home on the school bus at 2:21 pm on September 9, 2024, and at 2:22 pm on October 8, 2024.

CONCLUSIONS:

Special Education Instruction

In this case, the complainant alleges that based on the student's arrival home from school, the student did not receive instruction as required by the IEP. There is documentation that the student arrived home on the

school bus one minute after dismissal on September 9, 2024, and two minutes after October 21, 2024, demonstrating that the student was dismissed prior to the end of the instructional day.

Based on the Findings of Fact #1 through #3, MSDE finds that the CCPS has not ensured that the student has been consistently provided with special education instruction on September 9, 2024, and October 21, 2024, as required by the IEP, in accordance with 34 CFR § 300.101. Therefore, this office finds that a violation did occur concerning this aspect of the violation.

Provision of Scribe

In this case, the complainant alleges that based on the work samples provided by the school-based team, he believes the assignments were not completed by the student. The complainant believes the scribe provided the answers to the assignments. There is no documentation to support this allegation.

Based on the Findings of Fact #1 through #3, MSDE finds that the CCPS has ensured that the student has been consistently provided with a scribe as required by the IEP since October 17, 2023, in accordance with 34 CFR § 300.101. Therefore, this office finds that a violation did not occur concerning this aspect of the violation.

Text to Speech

Based on the Findings of Fact #1 and #2, MSDE finds that the IEP does not require text to speech services, in accordance with 34 CFR § 300.101. As a result, text to speech was not provided. Therefore, this office finds that a violation did not occur.

ALLEGATION #2

PRIOR WRITTEN NOTICE

4. The prior written notice (PWN) generated following an IEP team meeting on January 8, 2024, reflects that the IEP team meeting did not take place.
5. There is documentation that the PWNs generated following IEP team meetings on the following dates were provided to the complainant: February 5 and 16, 2024, May 10, 2024, June 16, 2024, September 5, 2024, October 12, 2024, and November 18, 2024.

CONCLUSION:

Based on Finding of Fact #4, MSDE finds that the CCPS did not convene an IEP team meeting on January 8, 2024, therefore, they were not required to provide prior written notice in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation did not occur concerning this aspect of the violation.

Based on Finding of Fact #5, MSDE finds that the CCPS did provide prior written notice of the IEP team's decisions from the IEP team meetings held since held since October 17, 2023, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation did not occur concerning this aspect of the violation.

CORRECTIVE ACTIONS 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.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 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.

Student-Specific

MSDE requires the CCPS to provide documentation by February 15, 2025, that the IEP team has taken the following action:

- a. Ensured that the student is receiving special education instruction as required by the IEP; and
- b. MSDE requires the CCPS to provide documentation by February 15, 2025, that it has convened an IEP team to determine whether the violation related to the provision of special education services had a negative impact on the student's ability to benefit from the education program. If the IEP team determines there was a negative impact; it must also determine the amount and nature of compensatory services or other remedies 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 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.

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, 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.

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.

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: Cynthia McCabe, Superintendent, CCPS
Wayne Whalen, Supervisor of Special Education Data and Compliance, CCPS
Principal, , CCPS
Principal, , CCPS
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Rabiatu Akinlolu, Compliant Investigator, MSDE