

January 10, 2025

[REDACTED]

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

Re: [REDACTED]  
Reference: #25-133

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 November 12, 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 School (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 is being provided with the special education services required by the IEP since September 9, 2024, in accordance with 34 CFR §§ 300.101 and .323.
2. The CCPS did not ensure that accessible copies of each assessment, report, data, chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meetings in October 2024, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.03.
3. The CCPS did not provide prior written notice of the IEP team's decisions from the IEP team meetings held since October 21, 2024, in accordance with 34 CFR § 300.503.

**BACKGROUND:**

The student is three years old and is a student with a Developmental Delay (DD). She attends the [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

### **FINDINGS OF FACT:**

1. The Prior Written Notice (PWN) generated after the IEP team meeting on July 24, 2024, states that the student was found eligible for Part B services after turning 3 years old due to a developmental delay. The PWN also indicates that the complainant requested to terminate the IFSP services and start services through an Individualized Education Program (IEP) when she turned age 3. Additionally, the PWN mentions that an IEP meeting will be held before the student's 3rd birthday to review the draft IEP.
2. There is no documentation that the IEP team received written consent to terminate early intervention services through the IFSP once the student turns three.
3. There is no documentation that the IEP team convened prior to the student's third birthday to develop the IEP.<sup>1</sup>
4. There is no documentation that the draft IEP was provided to the complainant five days before the IEP team meeting on October 21, 2024.

There is documentation that the draft IEP was provided to the complaint on October 23, 2024.

5. The IEP developed on October 21, 2024, reflects the following areas impacted by disability: language and literacy, physical well-being and motor development, and social foundations.

The IEP requires:

- assistive technology (AT) device(s) and AT service(s);
- supplementary aids, services, program modifications, and supports;
- goals in social foundations, language and literacy, physical well-being and motor developments;
- two hours thirty minutes per week of special education instruction, provided by the special education classroom teacher speech-language assistant and speech-language pathologist.; and
- two 30 minutes sessions per week of speech-language as a related service outside of the general education, provided by the speech-language pathologist and the speech-language assistant.

6. There is documentation that the PWN was provided to the family on November 5, 2024.
7. There is documentation that on November 6, 2024, the complainant provided written consent to initiate the IEP.
8. There is documentation that the finalized IEP was emailed to the complaint on November 18, 2024.
9. There is no documentation that the student has been provided with services since December 6, 2024.

### **DISCUSSION AND CONCLUSIONS:**

In Maryland, if a child who has been receiving services through an IFSP is found eligible for special education services under Part B of the IDEA prior to his or her third birthday, the child's parent can opt for the manner in which services will be provided. They may opt for the child to continue to receive services through an extended IFSP that has an educational component until the beginning of the school year following his or her fourth birthday, or for the child to receive preschool special education services through an IEP (COMAR 13A.13.01.01, .02, and .09).

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<sup>1</sup> The student date of birth is September 9, 2021.

In order to ensure a smooth transition from Part C early intervention services to Part B special education services or other community-based services, the Infants and Toddlers Program is required to conduct a transition planning meeting, with the approval of the parents, for all children receiving services under an IFSP. This meeting must be conducted no later than ninety (90) days prior to the child's third (3rd) birthday, unless the referral for early intervention services was made after the child reached the age of thirty-three (33) months. If the referral was made after the child turned thirty-three (33) months old, the transition planning meeting must be held as soon as possible (COMAR 13A.13.01.09).

If, at the Part C to Part B transition planning meeting, it is determined that the child may be eligible for preschool special education services, the local lead agency must, with the approval of the parents, convene an IFSP team meeting with a representative of the local school system to identify the steps necessary to arrange for the smooth transition of the child from Part C to Part B of the IDEA (COMAR 13A.13.01.09).

### **Provision of Special Education Services**

Based on the Findings of Fact #4 and #9, MSDE finds that the CCPS has not ensured that the student is being provided with the special education services required by the IEP, since December 6, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds a violation concerning this allegation.

### **Five-Day Documents**

Based on the Findings of Fact #4 and #5, MSDE finds that the CCPS did not ensure that accessible copies of each assessment, report, data, chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meetings in October 2024, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.03. Therefore, this office finds that a violation occurred concerning this allegation.

Notwithstanding, based on the Finding of Fact #4, MSDE finds that the CCPS provided the draft IEP to the complainant on October 23, 2024, following the IEP team meeting.

### **Prior Written Notice**

Based on the Findings of Fact #6, MSDE finds that the CCPS did provide prior written notice of the IEP team's decisions from the IEP team meetings held since October 21, 2024, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation did not occur concerning this allegation.

### **ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

Based on the Findings of Fact #1 through #3, MSDE finds that the CCPS did not ensure that an IEP was developed by the student's third birthday. Therefore, this office finds that a violation occurred.

### **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.<sup>2</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>3</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 April 15, 2025, that the IEP team has taken the following action:

- a. Provide the student with the special education instruction and services required by the IEP; and
- b. Provide documentation that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the failure to ensure that an IEP was developed by the student's third birthday, and failure to implement the IEP and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The CCPS must provide documentation, within one (1) year of the date of this Letter of Findings, that the student has been provided with the compensatory services or other remedy determined by the IEP team as a result of this investigation, or documentation of parent refusal of such compensatory services or other remedy.

### **Systemic**

MSDE requires the school system to review the records of 50 randomly selected students who are transitioning between Part C to Part B to determine the following:

- Whether the transition meeting was convened on a timely basis;
- Whether the student's IEP was developed on a timely basis;
- Whether the student's family was provided with the draft IEP 5 days prior to the transition meeting;
- Whether the student began receiving the services required by their IEP by their third birthday.

This report is due to MSDE on or before April 1, 2025. 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. Requests for reconsideration must be sent to Tracy Givens, Section Chief, Dispute

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<sup>2</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>3</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.

Resolution Branch, at [Tracy.Givens@maryland.gov](mailto:Tracy.Givens@maryland.gov). 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  
Dr. Paige Bradford, Chief, Specialized Instruction, MSDE  
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE  
Alison Barmat, Chief, Family Support and Dispute Resolution Branch, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Rabiatu Akinlolu, Complaint Investigator, MSDE