



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

May 6, 2021




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

Re:   
Reference: #21-066

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.

**ALLEGATION:**

On March 9, 2021, the MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her son, 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 Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the CCPS has not ensured that the Individualized Education Program (IEP) has been implemented since December 3, 2020, in accordance with 34 CFR §§300.101 and .323.

Specifically, the following is alleged that:

- a. The CCPS did not ensure the student’s work was monitored for completion;
- b. The CCPS did not ensure the student’s work was organized into smaller units;
- c. The CCPS did not ensure the student met with the school psychologist once every two (2) weeks to address attention strategies;
- d. The CCPS did not ensure the student met with the school counselor once per month to provide strategies to maintain attention during class instruction;
- e. The CCPS did not ensure the student met with the case manager for “check-ins” for organization management; and

- f. The CCPS did not provide quarterly reports on the student's progress toward achieving the annual IEP goals.

### **BACKGROUND:**

The student is fifteen (15) years old and is identified as a student with an Other Health Impairment due to Attention Deficit Disorder under the IDEA.

The student attended [REDACTED] until March 16, 2020, when there was a Statewide closure of all school buildings and initiation of virtual learning due to the COVID-19 pandemic. Since March 1, 2021, the student has been receiving education services at [REDACTED] as a result of the resumption of instruction in the school building.

### **FINDINGS OF FACTS:**

1. The initial IEP was developed on December 3, 2020. The IEP requires the provision of supplementary aids and supports to include strategies for increasing attention during class, organizational skills, ensuring the student is prepared for classes, monitoring during classes to increase the student's time on task, planning for long range assignments, and providing organizational support during instruction for current subject materials.

#### March 16, 2021 IEP Team Meeting

2. On March 16, 2021, the IEP team convened in response to the complainant's request. At the meeting, the team considered the complainant's concerns that the IEP was not being implemented.

#### Monitoring

3. The IEP requires that the student be monitored on tasks that may require his sustained attention for an extended period of time. During virtual and in-person instruction, the student's independent work is to be monitored and follow-up consultation with the student is to occur for assignments that have not been completed.
4. On March 16, 2021, the IEP team acknowledged that the student did not receive monitoring of independent assignments by the special education case manager. The IEP team summary documents that another special education teacher has been assigned to provide case management duties which includes monitoring the student's assignments.

#### Organizing Long Term and Multi-Step Assignments

5. The IEP requires that long term and multi-step assignments be organized into smaller, manageable units to allow the student increased understanding of the assignment during virtual and in-person learning.

6. On March 16, 2021, the IEP team acknowledged that this support was not provided. The team summary reflects that another teacher has been assigned to provide case management duties which includes organizing long term and multi-step assignments.

#### Executive Functioning Counseling

7. The IEP requires that the student receive support with organization to address all goals and objectives, from the psychologist/school counselor, twice weekly.
8. On March 16, 2021, the IEP team acknowledged that the school psychologist was not informed of the IEP requirements, and that this support was not provided consistently by the school counselor. The school counselor reported that the student did not make himself available for the provision of services. The team discussed that the student was not maintaining his “emotional momentum” and recommended assessments of social and emotional functioning.

#### Case Manager Checks

9. The IEP requires that the student receive assistance from the special education case manager for assistance with his daily organizational skills by providing him with ‘check- ins’ at the beginning and end of the day.
10. On March 16, 2021, the IEP team acknowledged that the case manager did not ‘check-in’ with student as required. The team summary documents that another teacher has been assigned to provide case management duties which includes daily checks with the student.

#### IEP Progress Reports

11. The IEP requires that the complainant be notified of the student’s progress toward achievement of the IEP goals on a quarterly basis.
12. On March 16, 2021, the IEP team discussed that the reports had been sent to the student and that he had not shared them with the complainant, and decided that the quarterly progress reports will be emailed directly to the complainant. The IEP team proposed that a staffing be held for all of the student’s teachers to review IEP implementation strategies and the team also agreed to meet on June 2, 2021 to consider compensatory services.

#### CONCLUSION:

Based on the Findings of Facts #1 - #12, the MSDE finds that the IEP has not been implemented as required, since December 4, 2020, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

**CORRECTIVE ACTIONS/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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.<sup>1</sup>

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770 and [nancy.birenbaum@maryland.gov](mailto:nancy.birenbaum@maryland.gov).

**Student Specific:**

The MSDE requires the CCPS to provide documentation that the student is being consistently provided with supports as required by the IEP.

The MSDE requires the CCPS to provide documentation that the IEP team has convened and determined the amount and nature of compensatory services or other remedy to redress the violation and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

**School-Based:**

The MSDE requires the CCPS to provide documentation of the steps taken at [REDACTED] High School to ensure the violation does not recur.

**TECHNICAL ASSISTANCE:**

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 correspondence. The new documentation must support a written request for

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<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must 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> The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

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reconsideration, and the written request must include a compelling reason for 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 timeframes 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 identification, evaluation, placement, or provision of a Free Appropriate Public Education for the student, including issues subject to this State complaint investigation, consistent with the IDEA. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.

Assistant State Superintendent

Division of Early Intervention/Special Education Services

MEF/sf

c: Kimberly Hill  
Lewan Jones  
■  
Dori Wilson  
Anita Mandis  
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