




**Mohammed Choudhury**  
State Superintendent of Schools

December 16, 2021




Dr. Tia McKinnon  
Director of Special Education  
Charles County Public Schools  
P. O. Box 2770  
La Plata, MD 20646

RE:   
Reference: #22-045

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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.

**ALLEGATIONS:**

On October 20, 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 Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The CCPS has not ensured that the student has been provided with speech and language services since the start of the 2021-2022 school year as required by the Individualized Education Program (IEP), in accordance with 34 CFR §§300.101 and.323.
2. The CCPS has not provided prior written notice of the team’s decision to reject the parent’s proposal for in-person speech and language services for the student at the start of the 2021-2022 school year in accordance with 34 CFR §300.503.

3. The CCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record, in accordance with 34 CFR §300.613.

**BACKGROUND:**

The student is six (6) years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The student's IEP, in effect at the start of the 2021-2022 school year, was developed on May 19, 2021, and amended on June 2, 2021. The IEP requires that the student be provided with speech and language services for thirty (30) minutes per week individually, and thirty (30) minutes per week in a group setting.
2. There is documentation that on September 14, 2021, the school staff contacted the complainant by electronic mail (email) and requested authorization for the student to receive speech and language teletherapy services. The school staff later explained that speech and language teletherapy services for the student would begin upon the hiring of an Instructional Aide.
3. On September 20, 2021, the complainant contacted the school staff by email to express her concerns about the student's inability to benefit from speech and language teletherapy services.
4. On September 21, 2021, the complainant contacted the school staff by email and suggested options for the student to be provided with in-person speech and language services rather than teletherapy services. In response, the CCPS central office staff indicated that there was a shortage of speech and language pathologists and that teletherapy was the "option available at this time." The staff also informed the complainant that in-person services would resume when a pathologist was hired. However, there is no documentation that the CCPS provided the complainant with a response that included a description of the options proposed by the parent and the reasons why those options were rejected.
5. In an email dated September 22, 2021, the complainant contacted the school and provided her approval for the student to receive speech and language teletherapy services. The complainant also requested access to any future recorded speech and language teletherapy sessions that will be provided to the student. However, the school staff indicated that based on the CCPS policy recordings are not provided. The school staff offered the complainant an opportunity to observe the sessions "twice a month for up to forty-five (45) minutes."
6. There is no documentation indicating that the student has participated in speech and language teletherapy services or that any recordings existed of the student receiving speech and language teletherapy services during the 2021-2022 school year.

## **CONCLUSION:**

### **Allegation #1: The Provision of Speech and Language Services**

Based on the Findings of Fact #1 - #6, the MSDE finds that the CCPS has not ensured that the student has been provided with speech and language therapy services as required by the IEP since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

### **Allegation #2: Prior Written Notice**

Based on the Findings of Fact #3 and #4, the MSDE finds that the CCPS has not provided sufficient prior written notice of the decision to reject the parent's proposal for in-person speech and language therapy services for the student, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to the allegation.

### **Allegation #3: Access to Records**

Based on the Findings of Fact #5 and #6, the MSDE finds that because the parties were discussing the parent's request to access future records that did not exist, the CCPS was not required to provide a response to that request at that time, in accordance with 34 CFR §300.613. Therefore, this office does not find that a violation occurred with respect to the allegation.

Notwithstanding the Findings, if the student were to participate in teletherapy sessions and the sessions were recorded, and absent any other exception to applicable laws, the CCPS must ensure that proper procedures are followed in responding to the parent's request to access the student's record, if such request is made.

## **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.

The MSDE has established reasonable time frames below to ensure that non-compliance 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.

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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.

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 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 or by email at Nancy.Birenbaum@maryland.gov.

### **Student-Specific**

The MSDE requires the CCPS to provide documentation that the student is being provided with the speech and language services required by the IEP.

The MSDE also requires the CCPS to provide documentation that the IEP team has taken the following actions:

- a. The IEP team has convened to consider the complainant's concerns about the provision of speech and language services for the student and provided written notice of the team's decision.
- b. The IEP team has determined the amount and nature of compensatory services to redress the lack of the provision of speech and language services, and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The CCPS must ensure that the parent is provided with 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.

### **School-Based**

The MSDE requires the CCPS to provide documentation of the steps taken to ensure that the violations identified in this Letter of Findings do not recur at [REDACTED]

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 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 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

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<sup>2</sup> The 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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Dr. Tia McKinnon  
December 16, 2021  
Page 5

(FAPE) 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/tg

c: Maria Navarro  
LeWan Jones  
■  
Brian Morrison  
Tracy Givens  
Nancy Birenbaum