

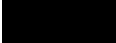


**Mohammed Choudhury**  
State Superintendent of Schools

December 23, 2021




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

RE:   
Reference: #22-047

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 25, 2021, the MSDE received a complaint from  hereafter, “the complainant,” on behalf of her daughter, 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 followed proper procedures when identifying and evaluating to determine if the student is a student with a disability requiring special education and related services, since October 25, 2020, in accordance with 34 CFR §§300.301, .302, .304-.306, and COMAR 13A.05.01.06.
2. The CCPS did not follow proper procedures when the IEP team determined the placement in which the student would receive special education instruction and related services for the 2021-2022 school year, in accordance with 34 CFR §§300.114 and .116.

3. The CCPS has not ensured that the student has been provided with the special education instruction and related services required by the Individualized Education Program (IEP) since October 25, 2020, in accordance with 34 CFR §§300.101 and .323.
4. The CCPS did not ensure that the parent was provided with accessible copies of the documents the IEP team planned to discuss at the IEP team meeting on September 20, 2021, at least five (5) business days before the scheduled meeting in accordance with Md. Code Ann., Educ., § 8-405 (2010).

### **BACKGROUND:**

The student is fourteen (14) years old, is identified as a student with an Intellectual Disability under the IDEA, and attends [REDACTED]. During the 2020-2021 school year, the student had an IEP that requires the provision of special education instruction and related services.

### **SUMMARY OF FINDINGS AND CONCLUSION:**

The CCPS acknowledges that violations occurred with respect to Allegations #1 - #4. Specifically, the CCPS acknowledges that the IDEA eligibility determination and the development of the IEP for the student was not completed within the required timelines, proper procedures were not followed when determining the educational placement of the student, special education instruction and related services have not been provided to the student, and that IEP documents were not provided to the parent five (5) business days prior to a scheduled IEP team meeting.

The MSDE concurs and appreciates the CCPS' acknowledgment that violations have occurred with respect to the allegations.

### **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

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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.

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 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 school system has taken the following action:

- a. The IEP team has determined the education placement in which the student will receive special education instruction and related services, consistent with the data, and provide the parent with prior written notice of the team decisions;
- b. The student is being provided with the special education instruction and related services required by the IEP; and
- c. The IEP team has determined the amount and nature of compensatory services to remediate the violations related to the delay in identifying and evaluating the student for special education services and the lack of the provision of special education instruction and related services, and develop 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

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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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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. 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  
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Brian Morrison  
Tracy Givens  
Nancy Birenbaum