

May 3, 2022

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Mr. Scott Szczerbiak
Director of Special Education
Saint Mary's County Public Schools
23160 Moakley Street
Leonardtown, Maryland 20650

RE: ██████████
Reference: #22-104

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 March 4, 2022, 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 Saint Mary's County Public Schools (SMCPS) 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 SMCPS has not ensured that the student is being provided with special education instruction in the Least Restrictive Environment (LRE), in accordance with 34 CFR §300.114.
2. The SMCPS has not ensured that the student has been provided with special education instruction in the general education classroom, as required by the Individualized Education Program (IEP) since the start of the 2021 - 2022 school year, in accordance with 34 CFR §§300.101 and .323.
3. The SMCPS has not ensured that the student has been provided with “hard copy of notes or partial notes during instruction,” as required by the IEP since the start of the 2021 - 2022 school year, in accordance with 34 CFR §300.323.

4. The SMCPS did not ensure that the reports of the student's progress towards achievement of his annual goals were consistent with the data during the first and second quarters of the 2021 - 2022 school year, in accordance with §300.324.
5. The SMCPS has not ensured that the parent has been provided with a written invitation to the IEP team meeting scheduled for March 9, 2022, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D.

BACKGROUND:

The student is fifteen (15) years old and is identified as a student with a Specific Learning Disability (SLD) under the IDEA. He attends ██████████ School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: INSTRUCTION IN THE LEAST RESTRICTIVE ENVIRONMENT

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021 - 2022 school year reflects that the student will receive specialized instruction in the general education classroom within "supported English, science, and social studies classes," and that he will not be removed from the general education setting.
2. The student's 2021 - 2022 class schedule and report card reflects that he is placed in all general education classes with a general education teacher, and in some classes, an additional paraeducator. The student's schedule also reflects that he has a "freshman seminar" class, which is described in the SMCPS course handbook as a general education classroom that provides additional academic support to all students enrolled in the class, and that the school staff have provided the student with support during his class period.

CONCLUSION:

In this case, the complainant alleges that the student is sometimes removed from his general education classrooms to receive specialized instruction from his teachers or IEP case manager.

Based on the Findings of Facts #1 and #2, the MSDE finds that the documentation does not support the allegation that the SMCPS has not ensured that the student is being provided with special education instruction in the LRE, in accordance with 34 CFR §300.114. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #2: SPECIALIZED INSTRUCTION IN THE GENERAL EDUCATION CLASSROOM

FINDINGS OF FACTS:

3. Samples of the student's classwork dated throughout the 2021 - 2022 school year, reflect that he has been provided with specialized instruction in the general education classrooms consistent with his class schedule, report card, and assigned general education teachers. In addition, there is documentation reflecting that the student's IEP annual goals were addressed with the provision of specialized instruction.

CONCLUSION:

Based on the Finding of Fact #3, the MSDE finds that the SMCPS has ensured that the student has been provided with special education instruction in the general education classroom, 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 does not find that a violation occurred with respect to the allegation.

ALLEGATION #3: PROVISION OF NOTES AS A SUPPLEMENTARY AID

FINDINGS OF FACTS:

4. The student's IEP in effect at the start of the 2021 - 2022 school year reflects that he is to be provided with "hard copy of notes or partial notes during instruction to allow him to focus on instruction rather than writing and spelling accurately." However, the IEP does not specify the frequency and manner in which the notes are to be provided to the student.
5. On November 3, 2021, the IEP team convened to review and revise the student's IEP, as appropriate. The complainant expressed concern that the student was not being provided with copies of teacher notes and requested notes from all assignments in order to re-teach concepts to the student at home. The IEP team agreed that during the weekly check-ins with the student, he will be reminded of where all teacher notes are needed for assignments. However, the IEP was not clarified to specify the frequency and manner in which the notes are to be provided to the student.
6. On March 9, 2022, April 5 and 22, 2022, the IEP team convened to review and revise the student's IEP, as appropriate. The complainant requested that the student be provided with "simplified teacher notes created by his teacher in all classes that directly reflect the important information needed ." The prior written notice reflects that the IEP team revised the student's IEP to reflect that he be provided with "hard copy of notes or partial notes filled in by a staff member during instruction to allow him to focus on instruction rather than writing and spelling accurately. In addition, a simplified presentation of new concepts needs to be given to [the student] in relation to the instructional lesson." The IEP team also agreed that the student and the complainant could access the notes in a

“shared Google folder in Schoology, [the student] can take his in-class Journal home that contains notes and use the notes posted on the walls and smartboard in class.” In addition, the team “provided a walkthrough explanation of how notes are provided and the formats that are available via google docs as well as in the classroom, and indicated that the folder would be edited to just contain simplified versions of notes.”

7. There is documentation that the student was provided with some class notes during the 2021 - 2022 school year. However, the documentation does not consistently demonstrate that the notes were specific for the student, indicate who completed the notes, the dates and classes the notes were developed, and whether the notes were provided to the student.
8. The student’s report card for the 2021 - 2022 school year reflects that he received passing grades in his classes for the first three quarters of the school year, and his annual IEP goals reflect that he is making sufficient progress to achieve the goals by June 14, 2022.

CONCLUSION:

Based on the Findings of Facts #4 - #8, the MSDE finds that the IEP was not written in a manner that contains a clear statement of the services to be provided, in accordance with 34 CFR §300.320, and thus, the SMCPSS did not ensure that it had been implemented as intended by the IEP team from the start of the 2021 - 2022 school year to April 22, 2022, in accordance with 34 CFR §300.323. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #6 and #8, the MSDE finds that the IEP team convened to clarify the services to be provided to the student, and that the student has made sufficient progress with his annual academic goals and academic course grades during the 2021 - 2022 school year. Therefore, this office finds that the violation has not negatively impacted the student’s ability to benefit from the education program and does not require student-specific corrective action with respect to this allegation.

ALLEGATION #4: PROGRESS REPORTS CONSISTENT WITH THE DATA DURING THE 1ST AND 2ND QUARTERS (2021 - 2022 SY)

FINDINGS OF FACTS:

Written Language Expression

9. The annual goal for the student to improve written language expression states that the student’s progress towards achieving the goal will be measured by the student’s ability to “write an argument and cite (2) pieces of evidence (e.g., direct quotes, examples, reasons) to support the given claim and respond to a counterclaim by citing (2) pieces of evidence in 2 out of 3 opportunities.” The objectives supporting the goal reflect that the student will “write a well developed claim statement, use evidence from the text that sufficiently supports the claim statement, and he will write to fully explain and extend thoughts about his chosen evidence to support a claim.”

10. The progress reported on the student's written language goal, dated November 5, 2021 and January 20, 2022, states that he was making sufficient progress to meet the goal, the progress was measured in the manner described by the IEP, and the classroom based assessments and classwork reflect the data that was used to report progress.

Reading Comprehension and Fluency

11. The annual goal for the student to improve reading comprehension and fluency states that the student's progress towards achieving the goal will be measured by the student's ability to answer the reading comprehension questions with a minimum of 70% accuracy, on 3 out of 4 opportunities. The objectives supporting the goal reflect that the student will "return to text to locate accurate information that support conclusions and provide responses to comprehension questions asked from the text, use annotations to determine evidence that relates to the claim statement and supports overall comprehension of the text, and will increase his reading fluency by 10% over baseline each quarter." Reading fluency is identified as an embedded goal within reading comprehension.
12. The progress reported on the student's reading comprehension goal, dated November 5, 2021 and January 20, 2022, states that he was making sufficient progress to meet the goal, the progress was measured in the manner described by the IEP, and the classroom-based assessments and classwork reflect the data that was used to report progress.

CONCLUSION:

Based on the Findings of Facts #9 - #12, the MSDE finds that the SMCPS has ensured that the reports of the student's progress towards achievement of his annual goals were consistent with the data during the first and second quarters of the 2021 - 2022 school year, in accordance with §300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #5: PROVISION OF AN IEP MEETING NOTICE FOR THE MARCH 9, 2022 IEP TEAM MEETING

FINDINGS OF FACTS:

13. There is documentation that an IEP team meeting written invitation was generated for the IEP meeting held on March 9, 2022. However, there is no documentation indicating that the student's parents were provided with the IEP team meeting written invitation prior to the meeting.
14. There is documentation that on March 9, 2022, the IEP team, including the student's parents, convened to discuss the student's progress and to review and revise the IEP, as appropriate. The meeting attendance sign-in sheet reflects that the student's parents attended the March 9, 2022 IEP team meeting and provided input about the student's educational performance. There is also documentation that the IEP team convened for

continuation meetings on April 5, 2022 and April 22, 2022, and that the student's parents were provided with IEP written invitations and attended the meetings to provide input about the student's educational performance.

CONCLUSION:

Based on the Findings of Facts #13 and #14, the MSDE finds that the SMCPS did not ensure the parent was provided with a written invitation to the IEP team meeting held on March 9, 2022, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Finding of Fact #14, the MSDE finds that the student's parents participated in the March 9, 2022 IEP team meeting and subsequent April 2022 IEP meetings to discuss the student's academic progress, and that meeting invitations were provided to the parents for the April 2022 meetings. Therefore, no corrective action is required.

TIMELINE:

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 (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:ac

c: James Scott Smith Carrie Smith ██████████
Brian Morrison Gerald Loiacono Albert Chichester