



Mohammed Choudhury
State Superintendent of Schools

May 27, 2022

[REDACTED]
[REDACTED]
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[REDACTED]

Mr. Phillip A. Lynch
Director of Special Education
Montgomery County Public Schools
850 Hungerford Drive, Room 225
Rockville, MD 20850

RE: [REDACTED]
Reference: #22-127

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 28, 2022, the MSDE received a complaint from Mr. [REDACTED] and Ms. [REDACTED], hereafter, “the complainants,” on behalf of their daughter the above-referenced student. In that correspondence, the complainants alleged that the Montgomery County Public Schools (MCPS) 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 MCPS has not ensured that the Individualized Education Program (IEP) addresses the student’s social/emotional and academic needs since March 28, 2021, in accordance with 34 CFR §§300.101, .320, and .324.
2. The MCPS did not ensure that the decisions regarding recovery services made on April 1, 2022 were consistent with needs of the student, in accordance with 34 CFR §300.324.

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BACKGROUND:

The student is thirteen (13) years old and is identified as a student with Multiple Disabilities under the IDEA including of a Specific Learning Disability and Other Health Impairment. She attends ██████████ School and has an IEP that requires the provision of specialized instruction.

FINDINGS OF FACTS:

1. The student's IEP in effect on March 28, 2021 was developed on July 30, 2020. The IEP reflects that the student has identified needs in the areas of reading comprehension, math calculation, written language expression, behavioral-executive functioning and self-management. The IEP includes annual goals, specialized instruction, and supports to address the student's skills in these areas. The IEP requires specialized instruction outside of the general education setting in a "self-contained resource setting" for five sessions for forty-five minutes per week. Additionally, the IEP requires specialized instruction inside of the general education classroom for twenty-five forty-five-minute sessions per week and the provision of a reading intervention.
2. The student's IEP dated July 30, 2020, reflects that her present level of performance in reading comprehension was below grade level. It reflects "her limited vocabulary was impacting her reading comprehension, that she has difficulty using context clues to guess the meaning of unknown words, and difficulties with attention and working memory" that impacts her reading comprehension. The IEP requires the provision of assistive technology for speech to text to assist the student in this area of need. The student's annual reading comprehension goal states that "given direct instruction and grade-level text, the student will increase her understanding of literacy and informational text with 80% accuracy in 5 consecutive sessions."
3. The student's IEP dated July 30, 2020, reflects that her present level of performance in math calculation was below grade level. The IEP reflects the student has "difficulty calculating math problems that require her to carry or borrow, is very slow to retrieve math facts, and does not show her work." The IEP requires the provision of a calculator. The student's annual math calculation goal states "with access to copies of notes, reteaching and additional practice, the student will compute fluently with multi-digit numbers and find common factors and multiples with 80% accuracy in 5 consecutive sessions."
4. The student's IEP dated July 30, 2020, reflects her present level of performance in written language expression as below grade level. The IEP reflects the student's "overall writing skills are impacted by poor motor coordination, verbal retrieval difficulties, and difficulty organizing verbal information. The student requires assistance to organize and edit written work, specific instruction on how to complete written responses of a paragraph or more." The IEP requires the provision of assistive technology for speech to

text, and spell check devices. The IEP requires the following instructional supports: graphic organizers, copies of notes, outlines, extended time, directions read aloud and repeated, proofreading checklist, and the use of a word bank. The student's annual written expression goal states "given a writing prompt, use of a graphic organizer, self-editing checklist and a word processor/Chromebook, the student will write arguments to support claims with clear reasons and relevant evidence with 80% accuracy in 5 consecutive sessions."

5. The student's IEP dated July 30, 2020, reflects her present level of performance in self-management as below age expectancy. The IEP reflects the student "acts without thinking, fiddle with things, has poor self-control, difficulty sitting still, is impulsive and fidgety." The student's test results were "fully consistent with a prior ADHD diagnosis." The student's annual self-management goal states, "given fading verbal reminders or non-verbal gestures, the student will follow classroom routines and procedures in order to meet the expectations of the class in 5 consecutive sessions."
6. The student's IEP dated July 30, 2020, reflects her present level of performance in executive functioning as below age expectancy. The IEP reflects the student has "difficulties with planning for successful task completion, organization of verbal information, overwhelmed by large assignments, underestimates the time needed to finish tasks, cannot find things in her desk and leaves belongings wherever she goes." The IEP requires "assistance with organization, monitoring of independent work, use of organizational aids, prompts to maintain attention or return to task, smaller assignments, strategies to initiate and sustain attention, monitor use of agenda book, and preferential seating." The student's annual executive functioning goal states that "given fading adult support/prompting, the student will use effective task and time management to identify work that needs to be completed, make a plan to complete those assignments, and follow through on her plan in 5 consecutive sessions."
7. The student's IEP in effect at the start of the 2021-2022 school year was developed at an IEP meeting on June 9, 2021. The IEP reflects that the student has identified needs in the areas of reading comprehension, math calculation, written language expression, behavioral-executive functioning and self-management. The IEP includes annual goals, specialized instruction, and supports to address the student's skills in these areas. The IEP requires specialized instruction outside of general education in a self-contained resource setting for ten sessions for forty-five minutes per week. Additionally, the IEP requires specialized instruction inside of the general education classroom for twenty sessions for forty-five minutes weekly and the provision of a reading intervention for seventh grade.
8. The student's IEP dated June 9, 2021, reflects her instructional level of performance in reading comprehension was at a seventh-grade level. Reports from her teacher reflected that the student was making satisfactory progress with reading class text and understanding lengthy texts. The student "continues to have difficulty with fluency and

keeping up with longer readings, she is still struggling with attention and focus, and requires frequent breaks.” The IEP requires speech to text technology, and paraphrasing of questions and instructions. The student’s annual reading comprehension goal states, “given direct instruction and grade-level text, the student will read closely to determine what the text says explicitly and to make logical inferences from it with 80% accuracy in 5 consecutive sessions.”

9. The student’s IEP dated June 9, 2021, reflects her present level of performance in math calculation was at a seventh-grade level “with support.” Reports from her teacher reflect that the student is “making satisfactory progress in math concepts, calculations, and applied problems. The student uses prior knowledge to help solve math problems, completes work on time, demonstrates a relative weakness in her math calculations - multiplying and dividing double digit numbers.” The IEP requires the provision of a calculator. The student’s annual math calculation goal states, “with access to copies of notes, reteaching and additional practice, the student will apply and extend understandings of operations to add, subtract, multiply and divide rational numbers and fractions with 80% accuracy in 5 consecutive sessions.”
10. The student’s IEP dated June 9, 2021, reflects that her present level of performance in written language expression was at a sixth-grade level. Reports from her teacher reflect that the student “needs a lot of support from start to finish with writing tasks, does not understand the prompt and writes about her thoughts, demonstrates sentence structure basics, needs to talk out her ideas with an adult to organize her thoughts, needs support in finding relevant supporting details.” The October 2021 amendment reflects concerns in grammar, spelling, and syntax, struggles with detail and “well developed structure”. In Social Studies, the student struggles with social studies literacy skills of sourcing and corroboration. She develops a thesis but the evidence does not support the thesis and the student cannot provide reasoning or basic sourcing. In English, the student’s work contains numerous errors in construction, grammar, and content, avoids assignments, and she submits work in Canvas without completing it. The student uses various strategies to leave class and not engage in on-line activities. The IEP requires the provision of assistive technology for speech to text, and spell check devices. The IEP requires the following instructional supports: graphic organizers, copies of notes, outlines, extended time, provide 1-2 directions at a time, verbalize ideas out loud with an adult prior to writing down, proofreading checklist, and the use of a word bank or sentence starters. The student’s annual written expression goal states “given a writing prompt, use of a graphic organizer, rubrics, examples of sentence starters, and opportunities to verbalize ideas out loud, the student will write arguments to support claims with clear reasons and relevant evidence with 80% accuracy in 5 consecutive sessions.”
11. The student’s IEP dated June 9, 2021, reflects her present level of performance in self-management as below age expectancy. Reports from her teacher reflects that the student “requires a significant amount of support to initiate and work through a task, impacted by her inability to sustain attention, easily distracted with peers, calls out in class, benefits

from an adult reading the questions aloud, requires frequent breaks, needs guidance to find an assignment, prompting to start assignments, and is distracted by fidgets she brings to class.” The IEP requires frequent changes in activities or opportunities for movement, frequent eye contact/proximity control, and strategies to initiate and sustain attention. The student’s annual self-management goal states, “given fading verbal reminders or non-verbal gestures, the student will follow classroom routines and procedures in order to meet the expectations of the class in 5 consecutive sessions.”

12. The student’s IEP dated June 9, 2021, reflects her present level of performance in executive functioning as below age expectancy. The IEP reflects the student “needed frequent check ins during and after class to make sure she was following directions to a task, has difficulty planning ahead and prioritizing assignments, does not know where to start, needs 1-1 support from an adult to talk out assignments, requires step by step chunking of directions, difficulty turning in assignments she worked on, weakness in organization skills, and takes out materials she doesn’t need for class.” The IEP requires “paraphrase questions and instruction, provide assistance with organization, monitor independent work, use of organizational aids, prompts to maintain attention or return to task, smaller assignments, monitor use of agenda book, and preferential seating.” The student’s annual executive functioning goal states “given fading adult support/prompting, the student will use effective task and time management to identify work that needs to be completed, make a plan to complete those assignments, and follow through on her plan in 5 consecutive sessions.”
13. The prior written notice generated after the student’s April 1, 2022 IEP team meeting reflects the purpose of the meeting was to discuss the Compensatory Recovery Services (CRS). The IEP team proposed twelve hours of CRS in the areas of reading comprehension, written language, and mathematics. Additionally, the IEP team proposed sixteen hours of CRS in the area of self-management/counseling and executive functioning/behavioral. The IEP team reviewed “student’s grades, work samples, test/quizzes, informal or formal assessments, and engagement/participation, they require CRS because they have not recouped skills lost within the expected time frame.” However, the IEP team did not provide the specific basis for each determination and indicated that they would revisit the determination “as parents and the school continue to get guidance.”

DISCUSSION/CONCLUSION:

Allegation #1

IEP that Addresses the Student’s Social/Emotional and Academic Needs

Based on the Finding of Fact #1- #12, the MSDE finds that the MCPS did ensure that the IEP addresses the student’s social/emotional, and academic needs since March 28, 2021, in accordance with 34 CFR §§300.101, .320, and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

Allegation #2: Decision Regarding Recovery Services

Based on the Finding of Fact #13, the MSDE finds that the MCPS did not ensure that the decisions regarding recovery services made on April 1, 2022 were consistent with needs of the student, in accordance with 34 CFR §300.324, and that the prior written notice from that meeting provides the basis and data relied on to support the decisions made regarding the hours of service and why the decisions address the student's needs. Therefore, this office finds that a violation occurred with respect to the 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.

The MSDE has established reasonable time frames below to ensure that non-compliance is corrected in a timely manner.¹ 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.

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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

The MSDE requires the MCPS to convene an IEP team meeting to finalize the CRS discussion no later than the start of the 2022-2023 school year.

¹ 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.

² 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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The MCPS must ensure that the parents are provided with written notice of the team's decisions, including the data relied on and the basis for the decisions.

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 parent and the school system 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

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