



Mohammed Choudhury
State Superintendent of Schools

May 31, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Dr. Linda Chambers
Mr. Troy Keller
Directors of Special Education
Frederick County Public Schools
191 South East Street
Frederick, Maryland 21701

RE: [REDACTED]
Reference: #22-115

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.

ALLEGATION:

On April 1, 2022, the MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Frederick County Public Schools (FCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the allegation that the FCPS has not ensured that the student was provided with the specialized instruction and supports required by his Individualized Education Program (IEP), since the beginning of the 2021-2022 school year, in accordance with 34 CFR 300.101 and .323.

BACKGROUND:

The student is fourteen (14) years old and is identified as a student with Multiple Disabilities under the IDEA. He is placed by the FCPS at the [REDACTED] a private special education school, 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 requires that the student receive specialized instruction outside the general education classroom and the use of text and/or scribe for all writing assignments.
2. The student's November 15, 2021, IEP reflects that the complainant was concerned that the student had not been receiving his scribe accommodation as required by the IEP. The IEP was amended to ensure daily intensive reading instruction as part of the student's supplementary aids and services. The IEP reflects instructional accommodations, including a word processor with speech to text/scribe and human reader/text to speech. The IEP also reflects that the student will receive a copy of student/teacher notes daily "as needed."
3. Following an IEP team meeting on January 19, 2022, the amended IEP indicates that the student "will receive a copy of teacher notes to ensure he has access to the required content for self-study," on a daily basis.
4. A March 9, 2022 email from the complainant reflects concern from the complainant that the IEP was not being implemented as written, including not receiving a human reader/scribe and not receiving teachers' notes.
5. An email dated March 16, 2022, from the complainant to the Program Director indicates concern from the complainant that she received a call from the school on March 15, 2022, indicating the student's absence.
6. An email dated March 16, 2022, from the Program Director to the complainant notes that the student was never "lost" at any time and that the phone call indicating the student's absence was a miscommunication about who was present that day.
7. An attendance report provides evidence that the student was present on both March 14, and March 15, 2022.
8. A March 22, 2022, IEP review meeting revised the IEP to indicate that "notes home will include topics being studied so the parent can reinforce skills at home." An email from the school to FCPS indicated that the original accommodation was not intended to provide the parent with daily lesson plans.
9. While there is some documentation that the IEP team was tracking the provision of accommodations and home/school communication, including that the student refused accommodations from January 17, 2022, to March 17, 2022, there is not consistent documentation that the student has been provided with the supports since the beginning of the 2021-2022 school year.

CONCLUSION:

Based on the Finding of Facts #1 - #9, the MSDE finds that the FCPS has not ensured that the student was consistently provided with special education instruction and supports, 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.

In addition, based on the Finding of Facts #8, the MSDE finds that the FCPS has not ensured that the student's IEP clarified the manner and delivery of the supplementary aids and services sufficiently to ensure that the student's IEP was fully implemented in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

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 noncompliance is corrected in a timely manner. 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action. Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the FCPS to provide documentation by the end of the 2021-2022 school year that the student is being provided with the services and supports as required by the IEP.

The MSDE requires the FCPS to provide documentation by the start of the 2022-2023 school year that the IEP team has convened to clarify the frequency and scope of the supplementary aids required as part of the IEP. The IEP team must also determine the amount and nature of compensatory services or other remedy to redress violations identified in this letter and developed a plan for the provision of those services within one year of the date of this Letter of Findings. The FCPS 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.

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School-Based

The MSDE requires the FCPS to provide documentation by the start of the 2022-2023 school year of the steps taken to ensure that the violations do not recur for students placed at the ██████████ by the FCPS.

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:gl

c: Mike Markoe
Alison Barmat
Brian Morrison
Diane Eisenstadt
Gerald Loiacono