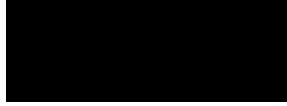




May 30, 2023



Ms. Audrey Ellis
Director of Special Education
St. Mary's County Public Schools
23160 Moakley Street
Leonardtown, Maryland 20650

RE: [REDACTED]
Reference: #23-194

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 April 12, 2023, MSDE received a complaint from Ms. [REDACTED], hereafter, "the complainant," on behalf of the above-referenced student. In that correspondence, the complainant alleged that the St. Mary's County Public Schools (SMCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The SMCPS has not followed proper procedures when conducting an initial evaluation of the student, since September 2022, in accordance with 34 CFR §§300.301 - .306, and COMAR 13A.05.01.06.
2. The SMCPS did not provide the parent with a completed copy of the Individualized Education Program (IEP) document within five business days after the IEP team meeting held on January 6, 2023, in accordance with COMAR 13A.05.01.07.

BACKGROUND:

The student is sixteen years old and is identified as a student with a Specific Learning Disability under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction.

FINDINGS OF FACTS:

1. The SMCPS acknowledges that the sixty-day initial evaluation timeline was not met. Specifically, the SMCPS IEP team obtained consent for initial evaluations on September 21, 2022, and the IEP team determined the student was eligible for special education services on December 8, 2022.

2. The SMCPS acknowledges that they did not provide the parent with a completed copy of the IEP document within five business days of the January 6, 2023, IEP team meeting. Specifically, SMCPS provided the complainant with the documents on May 8, 2023.

DISCUSSION/CONCLUSION:

Allegation #1:

Evaluation Process

Based on the Findings of Fact #1, MSDE finds that SMCPS has not followed proper procedures when conducting an initial evaluation of the student, since September 2022, in accordance with 34 CFR §§300.301 - .306, and COMAR 13A.05.01.06. MSDE appreciates the SMCPS' acknowledgement and concurs that a violation occurred with respect to the allegation.

Allegation #2:

Provision of IEP Document

Based on the Findings of Fact #2, MSDE finds that the SMCPS did not provide the parent with a completed copy of the IEP document within five business days after the IEP team meeting held on January 6, 2023, in accordance with COMAR 13A.05.01.07. MSDE appreciates the SMCPS' acknowledgement and concurs that a violation occurred with respect to the allegation.

Notwithstanding the violation, based upon Findings of Fact #2, MSDE finds that the complainant received the IEP document on May 8, 2023. Therefore, no further student specific corrective action is required to address this violation.

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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

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 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.

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, 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 MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Student-Specific

MSDE requires the SMCPS to provide documentation by August 1, 2022, that the school system has convened an IEP team meeting to determine whether the violation related to the delay in the initial evaluation process had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The SMCPS 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

MSDE requires the SMCPS to provide documentation of the steps that have been taken to ensure that [REDACTED] staff properly implements the requirements for initial evaluations and the provision of IEP documents under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor the action steps, a monitoring schedule and provision of the completed monitoring tool to MSDE by August 1, 2023.

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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC/tg

c: James Scott Smith
Cynthia K. Kilcoyne
[REDACTED]
Diane Eisenstadt

Alison Barmat
Gerald Loiacono
Tracy Givens
Nicol Elliott
Paige Bradford