


March 20, 2025

corrected 3/20/2025




Mr. Troy Keller
Director of Special Education Specialized Programs
and Supports Frederick County Public Schools
191 East Street
Frederick, Maryland 21701

Re: 
Reference: #25-226

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report on the final results of the investigation.

ALLEGATIONS:

On January 15, 2025, MSDE received a complaint from , hereafter, “the complainant,” on behalf of 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) and related requirements concerning the above-referenced student.

MSDE investigated the following allegations:

1. The FCPS has not ensured that the student has been consistently provided with the accommodations required by the Individualized Education Program (IEP) since August 2024, in accordance with 34 CFR §§ 300.101 and .323.
2. The FCPS has not followed proper procedures when responding to requests to access the student’s educational records since August 2024, in accordance with 34 CFR § 300.613.
3. The FCPS has not ensured that the student’s IEP includes annual goals designed to enable the student to progress through the general education curriculum since August 2024, in accordance with 34 CFR §§ 300.320 and .324.
4. The FCPS has not ensured that the student’s progress towards achievement of the annual goals were measured as described in the IEP since August 2024, in accordance with 34 CFR §§ 300.101 and .323.
5. The FCPS did not follow proper procedures when disciplinarily removing the student from school on September 5, 2024, in accordance with 34 CFR §§ 300.530 – 300.536, COMAR 13A.08.03, and COMAR 13A.05.01.10.

6. The FCPS has not ensured that the student has been provided with the special education instruction required by the IEP from a certified special education teacher since January 24, 2025, in accordance with 34 CFR § 300.156 and COMAR 13A.12.02.
7. The FCPS has not ensured that the student's IEP has been implemented, in accordance with 34 CFR §§ 300.101, and .323. Specifically, you allege:
 - a. FCPS has not ensured that the student's toileting plan has been implemented as required by the IEP since August 2024; and
 - b. FCPS did not ensure that the student has been consistently provided with a dedicated aide as required by the IEP from November 15, 2024, through December 1, 2024.

BACKGROUND:

The student is 21 years old and is a student with Autism under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1, #3, #6, and #7

PROVISION OF ACCOMMODATIONS, DEVELOPMENT OF THE IEP GOALS, PROVISION OF SPECIAL EDUCATION INSTRUCTION BY A CERTIFIED SPECIAL EDUCATION TEACHER, PROVISION OF SUPPLEMENTARY AIDES AND SERVICES

FINDINGS OF FACT:

1. The IEP in effect in August 2024 was developed on February 7, 2024, and amended on May 8, 2024. The IEP reflects the student's disability impacts the following areas: communication, community and career readiness, math calculation, physical education, reading comprehension, sensory processing, and functional upper extremity/hand skills.

The IEP requires goals in reading comprehension, math calculation, communication, community and career readiness.

The IEP requires the following instructional and assessment accommodations.

- assistive technology (non-screen reader)
- assistive technology
- English language arts (ELA)/ literacy selective response human scribe
- ELA/literacy selective response assistive technology device
- mathematics, science government response human scribe
- mathematics, science government response assistive technology device
- ELA/literacy response human scribe
- ELA/Literacy constructed response external assistive technology device
- monitor test response
- extended time 2.0.

The IEP requires a toileting protocol daily as a supplementary aid. The narrative reflects "[the student] is taken to the restroom 3-4 times per school day: upon arrival, before and/or after lunch, and again at the end of the day. [The student] needs staff to help pull down his pants and pull-up. He can assist with this process if he is verbally prompted and feeling stable.

Allow [the student] to sit for several minutes. Present picture signs for "need more time" or "all done". After using the toilet, [the student] can assist with pulling up his clothing if he is feeling stable. [The student] typically urinates 1-2 times per day and is dry about 65% of the time he is taking to the restroom."

The IEP requires daily staff support as a supplementary aid. The daily support is definitively described in the clarification section of the IEP. The IEP does not require a dedicated aide.

The IEP requires 15 hours per week of special education instruction outside the general education setting to be provided by the special education teacher and/or instructional assistant.

2. The IEP developed on January 2, 2025, reflects the student's disability impacts the following areas: communication, community & career readiness, math calculation, physical education, reading comprehension, sensory processing, and functional upper extremity/hand skills.

The IEP includes goals in reading comprehension, math calculation, communication, and community and career readiness.

The IEP requires the following instructional and assessment accommodations.

- assistive technology (non-screen reader)
- assistive technology
- human scribe
- monitor test response
- extended time 2.0.

The IEP requires a daily toileting protocol as a supplementary aid and service. The IEP reflects "[the student] is taken to the restroom up to 6 times per school day: upon arrival, before and/or after lunch, and again at the end of the day. [The student] needs staff to help pull down his pants and pull-up. He can assist with this process if he is verbally prompted and feeling stable. Allow [the student] to sit for several minutes. Present picture signs for "need more time" or "all done". After using the toilet, [Student] can assist with pulling up his clothing if he is feeling stable. [The student] typically urinates 1-2 times per day and is dry about 65% of the time he is taken to the restroom. The IEP requires the toileting plan to be implemented by the instructional assistant and/or special education classroom teacher.

The IEP continues to require daily staff support as a supplementary aid. The daily support is definitively described in the clarification section of the IEP. The IEP does not require a dedicated aide.

The IEP requires 32 hours per week of special education instruction outside the general education setting to be provided by the special education teacher and/or instructional assistant.

3. There is documentation of the provision of instructional and assessment accommodations as required by the IEP.

There is documentation of the provision of special education instruction by a certified special education teacher as required by the IEP.

There is documentation that the student's toileting plan is being implemented as required by the IEP since August 2024.

4. There is no documentation that the IEP requires a dedicated aide.

CONCLUSIONS:

Provision of Accommodations

Based on Findings of Fact #1, #2, and #3, MSDE finds that the FCPS has ensured that the student has been consistently provided with the accommodations required by the IEP since August 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE does not find a violation.

Development of the IEP Goals,

Based on Findings of Fact #1 and #2, MSDE finds that the FCPS has ensured that the student's IEP includes annual goals designed to enable the student to progress through the general education curriculum since August 2024, in accordance with 34 CFR §§ 300.320 and .324. Therefore, MSDE does not find a violation.

Provision of Special Education Instruction by a Certified Special Education Teacher

Based on Findings of Fact #1 and #3, MSDE finds that the FCPS has ensured that the student has been provided with the special education instruction required by the IEP from a certified special education teacher since January 24, 2025, in accordance with 34 CFR § 300.156 and COMAR 13A.12.02. Therefore, MSDE does not find a violation.

Implementation of Toileting Plan

Based on Findings of Fact #1, #2, and #3, MSDE finds that the FCPS has ensured that the student's toileting plan has been implemented as required by the IEP since August 2024 in accordance with 34 CFR §§ 300.101, and .323. Therefore, MSDE does not find a violation.

Provision of Dedicated Aide

In this case, the complainant alleges the student requires the services of a dedicated aide. The student's IEP requires daily staff support throughout the day. It does not require support from a dedicated staff member.

Based on Findings of Fact #1, #2, and #4, MSDE finds that the IEP did not require a dedicated aide. Therefore, the FCPS was not required to provide the student with a dedicated aide from November 15, 2024, through December 1, 2024, in accordance with 34 CFR §§ 300.101, and .323. Therefore, MSDE does not find a violation.

ALLEGATION #2

RESPONSE TO RECORDS REQUEST

FINDINGS OF FACT:

5. There is documentation, that the “parent & provider requested copies of nursing logs” during an IEP team meeting on January 2, 2025. The CCPS staff provided the requested copies on January 10, 2025. In that email the complainant requested additional records that were also provided.

CONCLUSION:

Based on Finding of Fact #5, MSDE finds the FCPS followed proper procedures when responding to requests to access the student’s educational records since August 2024, in accordance with 34 CFR § 300.613. Therefore, MSDE does not find a violation.

ALLEGATION #4

REPORT OF PROGRESS

FINDING OF FACT:

6. There is documentation that the student’s progress towards achievement of the annual goals were measured as required by the IEP since August 2024.

CONCLUSION:

Based on Finding of Fact #6, MSDE finds that the FCPS has ensured that the student’s progress towards achievement of the annual goals were measured as described in the IEP since August 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE does not find a violation.

ALLEGATION #5

DISCIPLINARY PROCEDURES

FINDING OF FACT:

7. There is no documentation to support the allegation that the student was disciplinarily removed from his classroom or school on September 5, 2024.

CONCLUSION:

Based on Finding of Fact #7, MSDE finds that there is no documentation that the student was disciplinarily removed from school on September 5, 2024, in accordance with 34 CFR §§ 300.530 – 300.536, COMAR 13A.08.03, and COMAR 13A.05.01.10. Therefore, MSDE does not find a violation.

TIMELINES:

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 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 why the documentation was not made available during the investigation. Request for reconsideration should be sent directly to Tracy Givens, Section Chief, Dispute Resolution at Tracy.Givens@maryland.gov. 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,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/ra

c: Cheryl L. Dyson, Superintendent, FCPS
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