



Karen B. Salmon, Ph.D.
State Superintendent of Schools

September 18, 2018

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Ms. Rebecca Rider
Director of Special Education
Baltimore County Public Schools
The Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: XXXXX
Reference: #19-013

Dear Parties:

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

ALLEGATIONS:

On July 26, 2018, the MSDE received a complaint from Ms. XXXXXXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, the above-referenced child. In that correspondence, the complainant alleged that the Baltimore County Public Schools Infants and Toddlers Program (BCITP) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the child.

The MSDE investigated the following allegations:

1. The BCITP did not ensure a comprehensive evaluation, in accordance with 34 CFR §303.321.
2. The BCITP did not ensure that the child was provided with a family directed assessment of the concerns of the family in identifying the supports and services needed at the June 28, 2017 Individualized Family Service Plan (IFSP) meeting, in accordance with 34 CFR §303.321.

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3. The BCITP did not ensure that the child was provided with the six (6) month review required by the IFSP, in accordance with 34 CFR §303.342.
4. The BCITP did not ensure accessibility and convenience of the December 21, 2017 IFSP team meeting, in accordance with 34 CFR §303.342.
5. The BCITP did not ensure that the child was provided with monthly contacts with the IFSP coordinator, in accordance with 34 CFR §303.340.

BACKGROUND:

The child is two (2) years old, is identified as a child with a Developmental Disability under the IDEA, and has an IFSP that requires the provision of special education and related services.

ALLEGATIONS #1-#4 EVALUATION AND IFSP DEVELOPMENT

FINDINGS OF FACTS:

1. On June 28, 2017, when the child was seventeen (17) months old, the BCITP conducted an initial evaluation to determine the child's eligibility for the Infants and Toddler Program. The team administered the Developmental Assessment of Young Children and gathered information through a family-directed assessment by interviewing the complainant. The results indicated that the child qualified with 25% or greater delays in the areas of receptive/expressive language and adaptive skills.
2. An IFSP was generated with the complainant's input. The complainant expressed concerns about the impact of the child's chronic ear infections have had on his speech and language skills. The family's priority was documented as having the child's speech/language skills develop appropriately.
3. The family's support network included family, friends, daycare, and doctors as resources for developing outcomes to address the needs of the child. The complainant documented that within six (6) months she would like for her child to communicate functionally.
4. The prior written notice for the IFSP meeting summary documented services to include special instruction, once per week for forty-five (45) minutes per session. Requests were made for Occupational and Physical Therapy assessments. A teacher of the deaf and hard of hearing was assigned to provide special instruction to address the child's communication and hearing needs.

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5. The prior written notice documents the team decided to reconvene in September 2017 for a two (2) month review to consider progress following the insertion of adenoideotomy and pressure equalization tubes (PE tubes) and provision of two months of intervention. However, this meeting was not held.
6. On December 14, 2017, the complainant requested that a speech/language assessment be conducted.
7. While attempts were made during December 2017 to schedule the six (6) months review of the IFSP, the meeting did not take place.
8. On April 9, 2018, an IFSP meeting was held to review the child's progress. The BCITP team did not respond to the request for a speech/language assessment. The speech/language assessment and the speech/language services were privately funded by the complainant.
9. The BCITP has offered to reimburse the complainant for the private speech/language therapy sessions or provide compensatory services to redress the delay of the provision of services.

CONCLUSIONS:

Allegation #1: Comprehensive Evaluation

Based on the Findings of Facts #1-#5, the MSDE finds that there is documentation that the BCITP did ensure that the evaluation of the child was comprehensive, in accordance with 34 CFR §303.321. Therefore, the MSDE finds no violation with respect to this allegation.

Allegation #2: Family Directed Assessment

Based on the Findings of Facts #6 - #9, the MSDE finds that the BCITP did not ensure that there was follow-up on the family-driven priority that was documented throughout the assessments, in accordance with 34 CFR §303.321. Therefore, this office finds that a violation has occurred with respect to the allegation.

Allegation #3: Six Month Review

Based on the Finding of Fact #7, there is documentation that the six month review did not take place, in accordance with 34 CFR §303.342. Therefore, this office finds that a violation has occurred with respect to the allegation.

Allegation #4: Accessibility to the IFSP Meeting

Based on the Finding of Fact #7, the MSDE finds that because the BCITP could not ensure accessibility and convenience for the IFSP meeting to take place in December 2017, the team was not convened at that time, in accordance with 34 CFR §303.342. Therefore, the MSDE does not find that a violation has occurred with respect to the allegation.

ALLEGATION #5: MONTHLY IFSP CONTACTS

FINDINGS OF FACTS:

10. Prior to January 22, 2018, a service coordinator was not available, and the individual assigned to serve as the interim service coordinator made one monthly contact with the complainant.

11. On January 22, 2018, a service coordinator was appointed to be responsible for monthly contacts, including phone calls, emails and in-home visits, to discuss concerns and schedule meetings, conduct reviews and required meetings. There is documentation that the service coordinator made monthly contacts and scheduled meetings, as required, since January 22, 2018.

CONCLUSION:

Based on the Findings of Facts #10 and #11, there is documentation that the monthly contacts by the service coordinator did not take place, in accordance with 34 CFR §303.340. Therefore, MSDE finds that a violation has occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINE:

The MSDE requires the BCITP to provide documentation by December 1, 2018, that the BCITP has conducted a family directed assessment, revised the IFSP consistent with the data and conducted transition planning.

The BCITP must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's 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.

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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 child, 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 Special Education/
Early Intervention Services

MEF/sf

c:

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