



Mohammed Choudhury
State Superintendent of Schools

August 18, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Allison Myers
Executive Director
Baltimore County Public Schools
Department of Special Education
Jefferson Building, 4th Floor
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #22-198

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 June 22, 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 Baltimore County Public Schools (BCPS) 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 BCPS did not provide the parent a copy of the completed Individualized Education Program (IEP) documents within five (5) business days following the IEP team meeting held on August 31, 2021, in accordance with COMAR 13A.05.01.07.
2. The BCPS did not ensure that accessible copies of the documents the IEP team planned to discuss at the IEP team meeting, on May 5, 2022, were provided at least five (5)

business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9).

3. The BCPS did not ensure that the IEP team convened to review the student's IEP in order to ensure that the IEP was reviewed at least annually since May 12, 2021, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is fifteen (15) years old and is identified as a student with Autism under the IDEA. He attends ██████████ School and has an IEP that requires the provision of special education instruction and related services.

Allegation #1: PROVISION OF COMPLETED IEP DOCUMENTS

FINDINGS OF FACTS:

1. On August 31, 2021, the IEP team met to review and revise the student's IEP. The IEP team summary generated after the IEP meeting reflects that the summary was mailed to the complainant on September 6, 2021.
2. On September 22, 26, and 30, 2021, the complainant emailed the BCPS staff requesting the student's IEP from the August 31, 2021, meeting. On September 30, 2021, the BCPS staff responded, "I will get it to you today." There is no documentation that the complainant was provided with the completed IEP documents following the August 31, 2021, IEP meeting.

CONCLUSION:

Based on Findings of Facts #1 and #2, the MSDE finds that the BCPS did not provide the parent with a copy of the completed IEP documents within five (5) business days following the IEP team meeting held on August 31, 2021, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2: PROVISION OF IEP DOCUMENTS

FINDINGS OF FACTS:

3. There is documentation that the complainant received notice on April 20, 2022, for an IEP team meeting scheduled for May 5, 2022.
4. On May 4, 2022, the BCPS staff emailed the complainant attaching the draft IEP and teacher reports.

5. The Parent Notification of IEP Team Meeting sent May 4, 2022 reflects that the student's annual review scheduled for May 5, 2022 was rescheduled for May 17, 2022 because "parent did not receive documents within 5 days of team."

CONCLUSIONS:

Based on Finding of Facts #3 and #4, the MSDE finds that the BCPS did not ensure that accessible copies of the documents the IEP team planned to discuss at the IEP team meeting, on May 5, 2022, were provided at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9). Therefore, this office finds that a violation occurred with respect to this allegation.

Notwithstanding the violation, based on Finding of Facts #4 and #5, the MSDE further finds that the parent received the required IEP documents on May 4, 2022 and the IEP team meeting was rescheduled for May 17, 2022. Therefore, no student specific corrective action is necessary to remediate this violation.

Allegation #3

ANNUAL REVIEW OF IEP

FINDINGS OF FACTS:

6. On May 12, 2021, the IEP team developed an IEP for the student.
7. On May 17, 2022, the IEP team met to review and revise, as appropriate, the student's IEP.

CONCLUSION:

Based on Finding of Facts #6 and #7, the MSDE finds that the BCPS did not ensure that the IEP team convened to review the student's IEP in order to ensure that the IEP was reviewed at least annually since May 12, 2021, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this 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 Ms. 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.

Student Specific

The MSDE requires the BCPS to provide documentation by October 1, 2022, of the following actions:

- a. That it has provided the complainant with the completed August 31, 2021 IEP documents; and
- b. That it has convened an IEP team meeting to determine whether the violations of provision of completed IEP documents and annual review of the IEP 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 BCPS 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.

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.

School-Based

The MSDE requires the BCPS to provide documentation by October 1, 2022, of the steps taken to ensure that the staff at [REDACTED] School properly execute the requirements of the IDEA and COMAR related to provision of IEP documents and the annual review of IEPs. The BCPS is required to provide the MSDE with monitoring reports on December 1, 2022, March 1, 2023, and June 1, 2023, demonstrating compliance with COMAR 13A.05.01.07 (sending documents from IEP team meetings to families within five (5) days following the meeting), 13A.05.01.03B(9) (sending documents expected to be discussed at IEP team meetings to families at least five (5) days prior to the IEP team meeting), and 34 CFR §300.324 (reviewing the IEP at least annually), for all students with IEPs attending [REDACTED] School during the 2022-2023 school year.

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/tg

c:	Conya Bailey	[REDACTED]	Gerald Loiacono
	Jason Miller	Alison Barmat	Tracy Givens
	Charlene Harris	Diane Eisenstadt	