



September 29, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]

Dr. Courtney Hill  
Executive Director of Special Education  
Baltimore City Public Schools  
200 E. North Avenue, Room 204 B  
Baltimore, MD 21202

RE: [REDACTED]  
Reference: #23-019

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 August 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 Baltimore City 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 has not followed proper procedures when conducting a reevaluation of the student since December 2021, in accordance with 34 CFR §§300.111. and .301 - .311 and COMAR 13A.05.01.06.
2. The BCPS did not ensure that a copy of the procedural safeguards notice was provided to the parent in December 2021, in accordance with 34 CFR §300.504.

**BACKGROUND:**

The student is six (6) years old and was referred for initial evaluations under the IDEA. During the 2021-2022 school year, the student attended [REDACTED] School, he currently attends [REDACTED]  
[REDACTED]

**FINDINGS OF FACTS:**

1. There is documentation that a child find referral was received by the BCPS on February 25, 2022, indicating that the complainant had concerns regarding the student in the area of social emotional,

behavioral, speech and language, and his academic performance in math, written language and reading.<sup>1</sup>

2. The BCPS acknowledges that there is an ongoing evaluation timeline violation beginning February 25, 2022. Specifically, the BCPS acknowledges that the IEP team did not make an eligibility determination within ninety (90) days of February 25, 2022.
3. The BCPS further acknowledges there is no documentation that the parent was provided with a copy of the Procedural Safeguards notice on February 25, 2022.

**CONCLUSIONS:**

**ALLEGATION #1: EVALUATION PROCEDURES**

Based upon the Findings of Facts #1 and #2, the MSDE finds that the BCPS did not ensure that proper procedures were followed when conducting an initial evaluation of the student since February 25, 2022, in accordance with 34 CFR §§300.111. and .301 - .311 and COMAR 13A.05.01.06. The MSDE appreciates the BCPS' acknowledgement and concurs that a violation occurred with respect to this aspect of the allegation.

**ALLEGATION #2: PROVISION OF PROCEDURAL SAFEGUARDS**

Based on Findings of Fact #3, the MSDE finds that the BCPS did not ensure that a copy of the Procedural Safeguards notice was provided to the parent on February 25, 2022, in accordance with 34 CFR §300.504. The MSDE appreciates the BCPS' acknowledgement and concurs that a violation occurred with respect to this aspect of the 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.<sup>2</sup> 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.

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<sup>1</sup> While the complainant indicates a request for re-evaluation was provided to the school in December 2021, there is no documentation of such a request.

<sup>2</sup> 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.

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.<sup>3</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [Diane.Eisenstadt@maryland.gov](mailto:Diane.Eisenstadt@maryland.gov).

**Student Specific:**

The MSDE requires the BCPS to provide documentation by November 15, 2022, of the following actions:

- a. That the IEP team has convened to review assessments and determined eligibility. If the student is eligible, 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 one (1) year of the date of this Letter of Findings; and
- b. Provided the parent with a copy of the procedural safeguards notice.

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.

**School-Based**

The MSDE requires the BCPS to provide documentation by January 1, 2023, identifying all students at [REDACTED] School for school years 2021-2022 and 2022-2023 who have not been evaluated within required timelines for special education and related services. The BCPS must ensure that each student is evaluated, assessments reviewed, and an IEP team has rendered an eligibility determination for special education and related services. The IEP team must convene and determine the amount and nature of compensatory services or other remedy to be provided to the students determined eligible for the delay to evaluate and develop a plan for the provision of those services within one (1) year of the date of this Letter of Findings. If a student transfers to another school system prior to the completion of the provision of the remedy, the BCPS must coordinate with the public agency responsible for the education of the student in order to ensure that the remedy is provided. The BCPS must report the results of this monitoring and plan to address any noncompliance to the MSDE by February 15, 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.

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<sup>3</sup> 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.

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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 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: Sonja Santelises  
Macon Tucker  
Christa McGonigal  
Denise Mabry  
[REDACTED]  
Alison Barmat  
Diane Eisenstadt  
Gerald Loiacono  
Tracy Givens