



Mohammed Choudhury
State Superintendent of Schools

October 7, 2022

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #23-036

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 student. This correspondence is the report of the final results of the investigation.

ALLEGATIONS:

On September 7, 2022, the 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 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 allegation that the BCPS amended the student’s June 2022 Individualized Education Program (IEP) outside of the meeting without obtaining the complainant’s agreement in violation of 34 CFR §300.324(a)(4) and COMAR 13A.05.01.08B(4).

BACKGROUND:

The student is fifteen years old, is identified as a student with Other Health Impairment under the IDEA, and has an IEP that requires the provision of special education and related services. The student is enrolled in BCPS.

FINDINGS OF FACTS:

1. The student’s most recent IEP is dated June 10, 2022. There is documentation that the complainant submitted parent input on June 22, 2022, and requested that it be included in the student’s IEP.

2. The June 10, 2022, IEP includes parent input, however, it is edited from the original input the complainant provided. The final paragraph, school and individual names are omitted. There is no documentation that these omissions were discussed, or that the complainant provided consent for the parental input statement to be revised.
3. On June 22, 2022, the complainant gave consent for referral packets to be sent to four nonpublic schools for consideration of placement. There is documentation that the edited version of the parent statement was included with the referral packets.

CONCLUSION:

Pursuant to the IDEA, a student's IEP may be changed after the annual IEP team meeting if the parent and the Local Education Agency agree not to convene a meeting for the purpose of making those changes to modify the IEP. If changes are made through amendment, rather than redrafting the entire IEP, a parent must be provided with a revised copy of the IEP with the amendments incorporated. 34 CFR §300.324(a)(4) and (6).

Based on Findings of Facts #1 through #3 the MSDE finds that the BCPS amended the student's June 2022 IEP outside of the meeting without obtaining the complainant's agreement in violation of 34 CFR §300.324(a)(4) and COMAR 13A.05.01.08B(4). Specifically, BCPS was permitted to remove staff names to protect their privacy, however, the complainant should have been informed of the changes and the basis for those changes. With regard to removing the names of specific schools, there is no basis for those amendments to be made outside of an IEP team meeting without seeking parental consent prior to making those changes. Additionally, the complainant had an additional paragraph in her June 22, 2022, parent input statement that was never included in the IEP document, with no explanation to the complainant and without the complainant's consent for it to be omitted. Therefore, this office finds that a violation has 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 noncompliance 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.

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.

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 ensure that the parent input statement provided by the complainant on June 22, 2022, is included in the student's IEP dated June 10, 2022, in its entirety, with the exception of the names of staff members. A copy of the IEP with the unedited parental input statement is to be sent to the complainant and the MSDE by October 31, 2022. A corrected copy of the student's IEP must also be provided to the student's nonpublic school. BCPS must provide the MSDE with verification that the corrected copy has been sent to the student's school by October 31, 2022.

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 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:abb

c:	Darryl Williams	Jason Miller
	Charlene Harris	[REDACTED]
	Alison Barmat	Diane Eisenstadt
	Gerald Loiacono	

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.