



December 22, 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: #23-071

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 October 24, 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 has not ensured that the Individualized Education Plan (IEP) team addressed the parent’s concerns regarding the student’s placement and adult support since October 24, 2021¹, in accordance with 34 CFR §300.324.
2. The BCPS did not provide proper written notice of the IEP team's decisions in the parent’s native language from the IEP team meetings held since October 24, 2021, in accordance with 34 CFR §300.503.
3. The BCPS did not provide a copy of the IEP document in the parent’s native language within five business days after the IEP team meetings held since October 24, 2021, in accordance with Md. Code, Ann., Educ. §8-405 and COMAR 13A.05.01.07.

¹ In her complaint, the complainant alleged allegations that extended beyond one year from the date the complaint was received. However, only those violations that are alleged to have occurred within one (1) year can be resolved through the State complaint investigations procedure (34 CFR §300.153).

4. The BCPS did not ensure that the parent was provided with copies of the procedural safeguards notice in their native language, when required, since October 24, 2021, in accordance with 34 CFR §300.504.
5. The BCPS has not followed proper procedures when responding to a request to review the student's education record since September 8, 2022, in accordance with 34 CFR §300.613.

BACKGROUND:

The student is eight (8) years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of specialized instruction and related services.

ALLEGATION #1:

ADDRESSING PARENTAL CONCERNS

FINDINGS OF FACTS:

1. On June 7, 2022, the IEP team convened to conduct an annual review of the student's IEP. There is no documentation that the complainant raised concerns regarding the student's placement and adult support during this meeting.
2. On September 8, 2022, the IEP team convened to review and/or revise the student's IEP. Documentation prepared following the meeting reflects that the parent requested a "dedicated one to one" for the student. A school-based member of the IEP team explained that his class ratio is six students to five adults and the student's IEP requires adult support and his current IEP addresses his needs. The team proposed collecting data to "ensure that [the student] has the support he needs within the classroom". There is documentation that the IEP team considered the complainant's concerns, but did not agree to revise the student's adult support on the IEP.
3. The documentation further reflects that the complainant expressed concerns about the student's least restrictive environment (LRE). A school-based member of the IEP team explained that the student receives instruction in the "communication learning support classroom". This classroom "is now an integrated model with functional learning support in order to meet the students' needs at a higher capacity." The students' have a smaller student to teacher ratio, and focus on communication, basic academics, and functional life skills. There is documentation that the IEP team considered the complainant's concern but did not agree to revise the student's LRE on the IEP.
4. On September 29, 2022, the IEP team convened to review and/or revise the student's IEP. Documentation prepared following the meeting reflects that the complainant inquired again about the student's need for increased adult support. The IEP Facilitator, shared that the student's IEP addresses his need for adult support and that he has access to the adult support when he needs assistance. The student's teacher shared the data collected on the student's use of adult support. The complainant requested bilingual adult support. The IEP team agreed that the student required a bilingual adult support staff in the student's classroom. There is documentation that the IEP team considered the complainant's concern but did not revise the student's IEP to reflect the team's decision.

CONCLUSIONS:

Based on the Findings of Facts #1 - #3, the MSDE finds that BCPS has ensured that the IEP team addressed the parent's concerns regarding the student's placement and adult support at the June 7, 2022 and September 8, 2022 IEP team meetings, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on the Findings of Fact #4, the MSDE finds that BCPS has not ensured that the IEP team addressed the parent's concerns regarding the adult support at the September 29, 2022, and IEP team meeting, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did occur with respect to this aspect of the allegation.

ALLEGATION #2:

PROVISION OF PRIOR WRITTEN NOTICE IN NATIVE LANGUAGE

FINDINGS OF FACTS:

5. The IEP team summary drafted after the June 7, 2022, IEP team meeting reflects that the summary was emailed to the complainant on June 7, 2022. While the document indicates, it would be provided electronically, there is no documentation that it was actually provided to the complainant.
6. On September 13, 2022, the complainant was provided with proper written notice of the IEP team's decisions from the September 8, 2022, IEP team meeting in her native language.
7. On November 1, 2022, the complainant was provided with proper written notice of the IEP team's decisions from the September 29, 2022, IEP team meeting, in her native language.

CONCLUSIONS:

Based upon Findings of Fact #5, the MSDE finds that the BCPS did not provide proper written notice of the IEP team's decisions in the parent's native language from the IEP team meeting held on June 7, 2022, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.²

Based upon Findings of Fact #6 and #7, the MSDE finds that the BCPS did provide proper written notice of the IEP team's decisions in the parent's native language from the IEP team meetings held on September 13, 2022, and September 29, 2022, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

ALLEGATION #3:

PROVISION OF THE IEP DOCUMENT

8. There is no documentation that the complainant was provided with the IEP document in English within five business days, or the parent's native language within thirty calendar days, following the June 7, 2022, IEP team meeting.

² The MSDE is not finding that prior written notice documents must be translated into a parent's native language in all cases. 34 CFR §300.503(c) requires that prior written notice be provided in the native language of the parent, or other mode of communication used by the parent unless it is clearly not feasible to do so. In this case, the BCPS did translate the notice into the parent's native language for some meetings, demonstrating its feasibility.

9. The Individual Team Summary drafted after the September 8, 2022, IEP team meeting reflects that the complainant shared that she previously requested, "that all documents be sent home in Spanish".
10. On September 26, 2022, the complainant was provided a copy of the student's IEP from the June 7, 2022, IEP team meeting in her native language.

CONCLUSIONS:

Based upon Findings of Fact #8, the MSDE finds that the BCPS did not provide a copy of the IEP document in English within five (5) business days or in the parent's native language within thirty (30) calendar days following the IEP team meetings held on June 7, 2022, in accordance with Md. Code, Ann., Educ. §8-405 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

Based upon Findings of Facts #9 and #10, the MSDE finds that on September 26, 2022, the BCPS provided the parent a copy of the IEP document created on June 7, 2022 in her native language and as a result, no further student specific corrective action is required.

ALLEGATION #4

PROVISION OF PROCEDURAL SAFEGUARDS

FINDINGS OF FACTS:

11. There is documentation that the complainant was provided with procedural safeguards in her native language at the September 8, 2022, IEP team meeting.
12. There is documentation that at the September 27, 2022, IEP team meeting, the complainant requested the procedural safeguards in her native language. There is no documentation that the complainant was provided with a copy of the procedural safeguards notice in her native language.

CONCLUSION:

Based upon Findings of Fact #11, the MSDE finds that the BCPS did ensure that the parent was provided with a copy of the procedural safeguards notice in their native language when required on September 8, 2022, in accordance with 34 CFR §300.504. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based upon Findings of Fact #12, the MSDE finds that the BCPS did not ensure that the parent was provided with a copy of the procedural safeguards notice in their native language when required on September 27, 2022, in accordance with 34 CFR §300.504. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #5:

REQUEST FOR RECORDS

13. On September 15, 2022, the BCPS received from the complainant a release of records for the provision of the student's attendance and health suite logs for school year 2021-2022 to her advocate.
14. On September 27, 2022, the BCPS provided the complainant with copies of the student's attendance and health suite logs for school year 2021-2022.

CONCLUSION:

Based upon Findings of Facts #13 and #14, the MSDE finds that the BCPS did follow proper procedures when responding to a request to review the student's education record since September 8, 2022, in accordance with 34 CFR §300.613. Therefore, this office does not find that a violation occurred with respect to 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.³ 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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.⁴ 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 February 1, 2023, of the following actions:

- a. That it has convened an IEP team meeting to revise the IEP as appropriate to ensure that it reflects the IEP team's decision regarding bilingual adult support.
- b. That it has provided the complainant prior written notices from the June 7, 2022, and September 29, 2022, IEP team meetings in her native language.
- c. That it has provided the complainant with procedural safeguards in her native language.

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.

³ 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.

⁴ 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 March 1, 2023, of the steps it has taken to ensure that the staff at ██████████ School properly implements the requirements for the provision of documents in the native language of parents of students with disabilities and addressing parental concerns under the IDEA and State law. These steps must include staff development, as well as tools developed to monitor the action steps, a monitoring schedule and provision of the completed monitoring tool to MSDE by May 1, 2023. The documentation must include a description of how the BCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations related to the provision of native language documents and addressing parental concerns do not recur.

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: Darryl Williams
Jason Miller
Charlene Harris
Conya Bailey
██████████
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Tracy Givens