



January 9, 2023



Allison Myers, Executive Director
Special Education Services
Baltimore County Public Schools
105 W Chesapeake Ave,
Towson, Maryland 21204

RE: [REDACTED]
Reference: #23-085

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 November 14, 2022, MSDE received a complaint from Mrs. [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.

MSDE investigated the following allegations:

1. The BCPS has not ensured that the student was provided with the speech/language services required by his Individualized Education Program (IEP) since October 2022, in accordance with 34 CFR §§300.101, and .323.¹
2. The BCPS has not ensured that the student is provided with adult support as required by the IEP during the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is five (5) years old and attends [REDACTED]. He is identified as a student with Autism under the IDEA and has an IEP that requires the provision of special education instruction and related services.

¹ MSDE previously identified this allegation as related to the development of the student’s IEP. After reviewing the complainant’s information and documentation available from the BCPS, the language of the allegation was amended accordingly.

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2022-2023 school year was developed on June 14, 2022. The IEP requires that the student be provided with 60 minutes of Speech/Language services per week. The IEP further requires that the student be provided with "adult support" daily to assist the student with "attention/participation, social engagement, and work completion" by providing him with "redirection, repetition of directions, visual and gestural cues."
2. The Speech/Language service logs for the 2022 - 2023 school year, reflect that the student received the services required by his IEP from September 1, 2022, to October 17, 2022.
3. The Speech/Language service log entry on September 26, 2022, reflects that the parent was informed that the service provider would be leaving the school as of October 31, 2022.
4. There is no documentation that the student has received the speech/language services required by his IEP since October 17, 2022.
5. While the BCPS has created a schedule indicating that additional staff members are assigned for the student during the 2022-2023 school year, there is no documentation that the adults are providing the services required by the student's IEP on a daily basis.

DISCUSSION/CONCLUSIONS:

Allegation #1 Provision of Speech/Language Services

Based on Findings of Facts #1- #4, MSDE finds that the student was not consistently provided with the Speech/Language services as required by his IEP, since October 17, 2022, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

Allegation #2 Provision of Adult Support

Based on Findings of Facts #1 and #5, MSDE finds that there is no documentation demonstrating that the student was consistently provided with adult support, as required by his IEP, since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323. 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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.² This office will follow up with the public agency to ensure that it completes the required actions consistent with MSDE Special Education State Complaint Resolution Procedures.

² 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. 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, 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.³ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific:

MSDE requires that the BCPS provide documentation by February 1, 2023, that the student is receiving the adult support services required by his IEP.

MSDE requires the BCPS to provide documentation by March 1, 2023, that:

1. If a speech/language pathologist has not been assigned to the student school, that the IEP team has convened to discuss any interim options to the provision of the student's speech/language services and update the IEP if appropriate. The BCPS must provide documentation each month thereafter demonstrating efforts made to hire additional speech/language pathologists, until such time as one has been assigned to the student's school. Upon the assignment of a speech/language pathologist to the student's school, MSDE requires the BCPS to provide documentation that the provider has initiated services to the student.
2. Determined whether the lack of the provision of speech/language and adult support services since the start of the 2022-2023 school year has 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 parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School Based:

MSDE requires the BCPS to provide documentation by March 1, 2023, identifying each student in the student's school who, since October 31, 2022, did not receive the speech/language services, as required by their IEPs. The BCPS must develop compensatory education plans for each student and provide the plans to MSDE by June 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.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

[REDACTED]
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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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC:ra

c: Darryl Williams
Conya Bailey
Charlene Harris
[REDACTED]
Alison Barmat
Diane Eisenstadt
Gerald Loiacono
Rabiatu Akinlolu