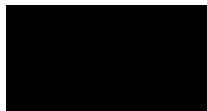





Mohammed Choudhury
State Superintendent of Schools

July 6, 2023




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

RE: 
Reference: #23-227

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 May 10, 2023, MSDE received a complaint from Ms. , hereafter, “the complainant,” on behalf of 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.

Based on your correspondence, MSDE investigated the following allegations:

1. The BCPS did not follow proper procedures when determining comparable services upon the student’s transfer to the BCPS since June 2022, in accordance with 34 CFR §300.323 and COMAR 13a.05.01.09.
2. BCPS has not ensured that the student has been provided with the special education instruction and related services required by the IEP since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.
3. BCPS did not follow proper procedures when determining the placement in which the student would receive special education instruction since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.114 and .116 and COMAR 13a.05.01.10.

BACKGROUND:

The student is eighteen years old and during the 2022-2023 school year attended [REDACTED] and [REDACTED] School ([REDACTED]). Prior to the 2022-2023 school year, she attended a school in [REDACTED]. At the end of the 2022-2023 school year, the student graduated with a high school diploma. During the time period that she was enrolled, she was eligible for special education services as a student with Multiple Disabilities, including a Specific Learning Disability and Other Health Impairment under the IDEA. She had an IEP that required the provision of special education instruction. The student has since graduated with a diploma.

FINDINGS OF FACT:

1. The student's IEP, developed by the [REDACTED] public school system, requires that she be provided with one hundred and twenty minutes per week of special education instruction in math calculation outside of the general education setting.
2. On July 11, 2022, the student enrolled in the BCPS. She was assigned to [REDACTED] for summer school. At the start of the 2022-2023 school year, the student was transferred to [REDACTED] an [REDACTED] Program.
3. On February 24, 2023, the IEP team met to develop a BCPS IEP. The IEP team determined the student requires five-one hour and ten minutes sessions per week of special education instruction in math. The IEP team further determined that the student would continue to attend her assigned school with special education services inside the general education setting.
4. In its written response, the BCPS acknowledges that they did not follow proper procedures when determining comparable services upon the student's transfer to the BCPS since June 2022. Specifically, the BCPS IEP team did not meet to adopt or revise the student's out of state IEP until February 24, 2023.
5. The BCPS acknowledges that the student has not been consistently provided with the special education instruction and related services required by the IEP since the start of the 2022-2023 school year. Specifically, the student did not receive specialized math instruction as required by the IEP.
6. The BCPS acknowledges that they did not follow proper procedures when determining the placement in which the student would receive special education instruction, since the start of the 2022-2023 school year. Specifically, the BCPS IEP team did not meet to discuss and determine an appropriate placement until February 24, 2023.
7. There is documentation that on May 24, 2023, the IEP Team met to discuss the impact of BCPS' failure to determine comparable services, provide special education instruction as required by the IEP, and determine the student's educational placement. The IEP team determined that because the student was able to make progress on her IEP goals, increased her skills in areas of need, passed each of her classes, and graduated with a high school diploma, that there was no adverse impact to the student and compensatory services were not warranted.

CONCLUSIONS:

Based upon the Findings of Facts #1 to #4, MSDE finds that the BCPS did not follow proper procedures when determining comparable services upon the student's transfer to the BCPS since June 2022, in accordance with 34 CFR §300.323 and COMAR 13a.05.01.09. MSDE appreciates the BCPS' acknowledgement and concurs that a violation occurred with respect to the allegation.

Based upon the Findings of Fact #5, MSDE finds that the BCPS has not ensured that the student has been provided with the special education instruction in math as required by the IEP since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323. MSDE appreciates the BCPS' acknowledgement and concurs that a violation occurred with respect to the allegation.

Based upon the Findings of Fact #6, MSDE finds that the BCPS did not follow proper procedures when determining the placement in which the student would receive special education instruction, since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.114 and .116 and COMAR 13a.05.01.10. MSDE appreciates the BCPS' acknowledgement and concurs that a violation occurred with respect to the allegation.

Notwithstanding the violations based upon the Findings of Fact #7, MSDE finds that the BCPS has convened an IEP team meeting to address the violations and determined that the student does not require compensatory services. Therefore, no further student specific corrective action is required.

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

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, 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 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

MSDE requires the BCPS to provide professional development for staff at ██████████ on the proper procedures to follow for students with IEP transferring from out of state. The BCPS must provide documentation of the professional development, including materials and a list of participants to MSDE by October 15, 2023. The BCPS must also monitor incoming students at ██████████ to ensure proper procedures are being followed for students with IEPs transferring from out of state. The BCPS must provide a report to MSDE by October 31, 2023, December 31, 2023, February 28, 2024, April 30, 2024, and June 30, 2024, of any students who have transferred to ██████████ with out of state IEPs. The monitoring must include the date The BCPS determined comparable services, the date eligibility was determined, the date the Maryland IEP was drafted, and the date services were initiated in Maryland.

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. 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/tg

c: Sonja Santelises
Christa McGonigal
Debra Mabry
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Nicol Elliott
Paige Bradford
Tracy Givens