



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

February 24, 2020



Dr. Debra Brooks  
Director of Special Education  
Baltimore City Public Schools  
200 East North Avenue, Room 204-B  
Baltimore, Maryland 21202

RE: [REDACTED]  
Reference: #20-083

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 January 9, 2020, 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 student.

The MSDE investigated the following allegations:

1. The BCPS did not provide a copy of the Individualized Education Program (IEP) document within five (5) business days after the April 11, 2019 IEP team meeting, in accordance with COMAR 13A.05.01.07.
2. The BCPS did not ensure that the IEP, dated August 13, 2019, was revised through an IEP team that included parent participation, in accordance with 34 CFR §§300.321 and .324.

**BACKGROUND:**

The student is twelve (12) years old and is identified as a student with Autism under the IDEA. He has an IEP that requires the provision of special education and related services and is enrolled in the [REDACTED]. The complainant stopped sending the student to school on December 16, 2019 due to concerns about the student's safety at the school. During the 2018 - 2019 school year, the student attended [REDACTED].

**ALLEGATION #1                      PROVISION OF APRIL 11, 2019 IEP**

**FINDINGS OF FACTS:**

1. On April 11, 2019, the IEP team, including the complainant, convened and revised the student's IEP.
2. There is no documentation that the April 11, 2019 IEP was provided to the complainant within five (5) business days following the April 11, 2019 IEP meeting.

**CONCLUSION:**

Based on the Findings of Facts #1 and #2, the MSDE finds that the complainant was not provided with the April 11, 2019 IEP within five (5) business days of the April 11, 2019 meeting, in accordance with COMAR 13A.05.01.07. Therefore, the MSDE finds a violation with respect to this allegation.

**ALLEGATION #2      PARENT PARTICIPATION IN THE IEP TEAM'S DEVELOPMENT OF THE AUGUST 13, 2019 IEP**

**FINDINGS OF FACTS:**

3. The IEP team did not convene on August 13, 2019.
4. The most recent IEP meeting was held on April 11, 2019 when the IEP team conducted an annual review of the student's educational program. At the time, the student was in the fifth (5th) grade and attending [REDACTED].
5. The complainant participated in the April 11, 2019 IEP meeting, but was not provided with the IEP developed on April 11, 2019.
6. On July 2, 2019, administrative amendments were made to the IEP to correctly identify the student's school for the upcoming 2019 – 2020 school year to the [REDACTED] and to correct the Least Restrictive Environment (LRE) page to accurately reflect the location of the student's special education services.

7. On August 13, 2019, additional administrative amendments were made to reflect that the student matriculated to the sixth (6th) grade and to change the name of the IEP Case Manager.
8. On September 4, 2019, the complainant sent a text message to the school staff at the [REDACTED] requesting the student's IEP from the April 11, 2019 IEP team meeting.
9. On November 21, 2019, the complainant sent another text message to the [REDACTED] staff stating that she "never got his IEP."
10. On November 22, 2019, the complainant was provided with the IEP which contains the amendments made on July 2, 2019 and August 13, 2019.

### **CONCLUSION:**

In this case, the complainant alleges that the IEP was revised on August 13, 2019 without either her agreement to amend the program or her opportunity to participate in an IEP team meeting.

Based on the Findings of Facts #3 - #10, the MSDE finds that, while administrative amendments were made to the IEP on July 2, 2019 and August 13, 2019, neither the program nor the placement were changed from the IEP developed at the April 11, 2019 IEP team meeting in which the complainant participated, in accordance with 34 CFR §§300.321 and .324. Therefore, the MSDE does not find a violation with respect to this aspect of the allegation.

### **ADDITIONAL DISCUSSION:**

The complainant also reports that the IEP team did not develop the annual goals and services that are reflected in the IEP that has been in effect since the April 11, 2019 IEP meeting.

As stated above, the complainant was not provided with the IEP that has been in effect since the April 11, 2019 IEP team meeting until November 22, 2019. If the complainant believes that information contained within the student's educational record is inaccurate or misleading, she has the right under the IDEA and the Family Educational Rights and Privacy Act (FERPA) to request that the BCPS amend the information that is believed to be inaccurate or misleading. If the BCPS refuses to amend the record, it must inform the complainant of that decision and provide her with the opportunity to request a hearing to challenge the information (34 CFR §§300.618 - .621).

### **CORRECTIVE ACTION/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 timeframes below to ensure that noncompliance is corrected in a timely manner.<sup>1</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.

If the public agency anticipates that any of the timeframes below may not be met, or if either party seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770.

### **Student-Specific**

The MSDE requires the BCPS to provide documentation by April 1, 2020, that the [REDACTED] staff have offered to convene an IEP team meeting before April 1, 2020, if the complainant wishes to review the IEP with the IEP team.

### **School-Based**

The MSDE requires the BCPS to provide documentation by April 15, 2020, of the steps it has taken to ensure that the [REDACTED] staff comply with the COMAR requirement for providing a copy of the IEP document to parents within five (5) business days following an IEP team meeting. The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur.

Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

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

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<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must 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.

<sup>2</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.

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 timeframes 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  
and Special Education Services

MEF/ksa

c: Sonja B. Santelises  
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