



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

May 14, 2021



Dr. Katherine Pierandozzi
Director of Special Education
Baltimore County Public Schools
6901 Charles Street
Towson, Maryland 21204

Re:
Reference: #21-069

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.

ALLEGATION:

On March 15, 2021, the MSDE received a complaint from Mr. hereafter, “the complainant,” on behalf of his 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 Act (IDEA) with respect to the student.

The MSDE investigated the allegation that the BCPS has not ensured that the student has been provided with a Free Appropriate Public Education (FAPE) since March 15, 2020, in accordance with 34 CFR §§300.101-.323, and .324, as well as federal and State guidance. This includes the following:

- a. The BCPS has not ensured that the student’s progress towards achievement of the annual Individualized Education Program (IEP) goals has been monitored and the IEP reviewed and revised, as appropriate, to address lack of expected progress; and
- b. The BCPS has not ensured that the IEP team has considered parental concerns about the student’s class attendance and progress.

BACKGROUND:

The student is sixteen (16) years old and is identified as a student with Autism under the IDEA. He attended School, until March 16, 2020, when there was a Statewide

closure of all school buildings and initiation of virtual learning due to the COVID-19 pandemic. Since March 1, 2021, the student has again been receiving education services at [REDACTED] School as a result of the resumption of instruction in the school building.

FINDINGS OF FACTS:

1. On September 22, 2020, the IEP team convened to conduct an annual review of the IEP in effect on March 15, 2020. The documentation of the meeting reflects that the complainant expressed concern that the student requires more concrete directions in order to understand what is being asked of him. The IEP team decided to add to the IEP weekly “check-ins” with the case manager to assist the student with organizational skills and to collect data on when the student reaches his frustration level and when the student advocates for himself.
2. On February 23, 2021, the IEP team met in response to a request for an IEP team meeting by the complainant. The documentation of the meeting reflects that at the meeting, the complainant questioned the English teacher about the student having missed an assignment and whether not turning in the assignment was a result of a lack of knowledge of the material or a lack of organization. The IEP team discussed the probable cause for the missing assignment and how the teacher would proceed to remedy the issue. The IEP team discussed that overall, the weekly “check-ins” were successful in ensuring the student completes work, but that additional support would be provided by the teacher.
3. On March 24, 2021, the IEP team convened again in response to the complainant’s request for an IEP team meeting to discuss his concerns about the student’s class attendance, his belief that the student is experiencing a regression of skills, and his request for a reevaluation. The documentation of the meeting reflects that at the meeting, the complainant expressed concern that the student continues to have organization difficulties and is “quiet” with his peers. The complainant reported that he believed “the student was experiencing regression in all areas,” but could not provide a basis for this belief. While the next reevaluation is not due until May 24, 2022, the complainant requested that a reevaluation be conducted in order to obtain updated formal assessment data to demonstrate whether the student has experienced a regression in skills.
4. The documentation of the March 24, 2021 IEP team meeting reflects that the team considered information from the social worker that the student is more engaged and talkative during recent sessions than at the beginning of the 2020-2021 school year.

The team also considered reports from the student’s teachers that the student participates in class, advocates for himself, is making progress with his IEP goals, does not show academic or social regression, and that his writing skills were higher than his current grade level. The student’s teachers further reported that the student’s absences were not frequent or lengthy enough to impact progress. Based on this information, the complainant’s request for a reevaluation was denied.

5. The student’s attendance data reflects that the student attended full days of school at a 93.23% rate, and was absent on 9 days between September 8, 2020 and April 13, 2021.

6. The student's report card, dated April 23, 2021, reflects that he is earning "A's" in aquatic science, science honors, world history honors, Spanish II, and biology honors classes. His report card for the third marking period reflects that he earned "A's" in English 10 honors and food preparation, a "B" in biology honors, and a "C" in his algebra 2 honors class.
7. The IEP requires that reports be made on the student's progress towards achievement of the annual IEP goals on a quarterly basis. The student's education record contains reports of the student's progress towards achievement of the annual goals on a quarterly basis except for the third (3rd) quarter of the 2019-2020 school year. The reports reflect that for all subsequent quarters sufficient progress is being made on the goals.

CONCLUSIONS:

Based on the Finding of Fact #7, the MSDE finds that the BCPS did not ensure that the student's progress towards achievement of the annual IEP goals was reported for the third (3rd) quarter of the 2019-2020 school year, as required by the IEP, in accordance with 34 CFR §§300.101 and 323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation, based on the Findings of Facts #4 - #7, the MSDE finds that there is documentation that the student has made sufficient progress. Therefore, this office finds that there was not a lack of expected progress and the violation did not result in a denial of a FAPE. Thus, no student-specific corrective action is required to remediate the violation.

Based on the Findings of Facts #1 - #4, the MSDE finds that the BCPS did ensure that the IEP team considered parental concerns about the student's attendance and progress in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

CORRECTIVE ACTION/TIMEFRAME:

The MSDE requires the public agency to provide documentation of the completion of the corrective action listed below.¹ This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures.

If the public agency anticipates that the timeframe below may not be met, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch,

¹ 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.

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MSDE, to ensure the effective implementation of the action.² Dr. Birenbaum can be reached at (410) 767-7770 and nancy.birenbaum@maryland.gov.

The MSDE requires the BCPS to provide documentation of the steps taken at [REDACTED] High School to ensure progress reports are made consistent with each student's IEP.

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 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 identification, evaluation, placement, or provision of a 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/sf

c: Darryl L. Williams
Jason Miller
Daniel Martz
Charlene Harris
[REDACTED]
Dori Wilson
Anita Mandis
Sharon Floyd
Nancy Birenbaum

² The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.