



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

May 24, 2021



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

RE: [REDACTED]  
Reference: #21-074

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.

**ALLEGATION:**

On March 26, 2021, 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 above-referenced student.

The MSDE investigated the allegation that the BCPS did not follow proper procedures to ensure that the student was identified as a student with a disability under the IDEA during the 2020 -2021 school year, in accordance with 34 CFR §§300.111 and .324.

**BACKGROUND:**

The student is seven (7) years old and has not been identified as a student with a disability under the IDEA.

The student attended [REDACTED] until the March 2020 closure of school buildings and initiation of virtual learning due to the COVID-19 pandemic. On March 1, 2021, the student returned to the school building for instruction.

### **FINDINGS OF FACTS:**

1. On September 18, 2020, the complainant made a referral for the student to be evaluated for special education services under the IDEA. The referral reflects that the complainant had concerns with the student's speech fluency, social and emotional behavior, reading phonics, fluency, and oral skills, math calculation, and written language mechanics.
2. On October 9, 2020, the Individualized Education Program (IEP) team convened. The complainant reported that the student had been diagnosed with Attention Deficit-Hyperactivity Disorder. The meeting summary reflects that the student "was unable to attend Pre-Kindergarten and had a significant number of days absent (22) in Kindergarten before the pandemic (Covid -19)." The team determined that, "due to a lack of instruction, there was not sufficient data to suspect a disability had impacted the student's academic performance." The team recommended that the student be referred to the Student Support Team (SST) for supports and interventions in the general education program.
3. There is documentation that in October 2020, the SST determined that the student demonstrated a need for support with attendance and accessing the computer for instruction, and also required hard copies of material-lesson packets and books to assist him with staying on task. The team indicated that the student would receive tiered interventions from October 2020 to January 28, 2021, before being exposed to the next level of intensity or tier of interventions and supports, if appropriate.
4. The communication logs kept by the student's teacher and school staff reflect that, from October 19, 2020 to February 12, 2021, phone calls, text and voice messages were left for the complainant by school staff in an attempt to provide the student with support in attending virtual classes, logging on to the computer, to collect reading data, and to provide assistance with his instructional packets. However, the attempts indicate that on numerous occasions, there was no response by the complainant, she was unavailable to assist the student due to her work schedule, or no one in the student's home was available to assist him.
5. On March 1, 2021, the student returned to the school building for instruction.
6. On May 5, 2021, the IEP team convened in response to another referral made by the complainant for an IDEA evaluation of the student. The referral indicated concerns with attentiveness and academics. The meeting summary reflects that the student has had "27 absences in Q1 2020, 44 absences in Q2, 31 absences in Q3 and 5 absences so far in Q4 2021." The student's teacher reported that since the student began attending school in the building again, he demonstrated difficulties with focusing, remaining seated, and controlling "emotional outbursts." The student's private therapist reported that the student was referred to him by the complainant because of social and emotional concerns.

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7. Based on the data, the team recommended that educational, psychological, speech and language, and occupational therapy assessments be conducted to complete an IDEA evaluation of the student. Consent for assessments was provided by the complainant on May 12, 2021.

**CONCLUSION:**

Based on the Findings of Facts #1 - #7, the MSDE finds that the BCPS followed proper procedures to ensure that the student was evaluated to determine whether he is a student with a disability under the IDEA during the 2020 - 2021 school year, consistent with the data, in accordance with 34 CFR §§300.111 and .324. Therefore, this office does not find that a violation occurred with respect to the allegation.

**TIMELINE:**

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:ac

c: Sonja B. Santelises  
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