



June 24, 2022

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Dr. Debra Y. Brooks  
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Baltimore City Public Schools  
200 E. North Avenue, Room 204 B  
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RE: [REDACTED]  
Reference: #22-140

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 April 29, 2022, the MSDE received a complaint from Ms. Megan Jones, 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.

The MSDE investigated the allegation that the BCPS did not ensure that the decisions regarding recovery services made on February 9, 2022, were consistent with the needs of the student, in accordance with 34 CFR §§300.101 and 324.

**BACKGROUND:**

The student is eight (8) years old and is identified as a student with Autism under the IDEA. He attends ██████████ School and has an Individual Education Program (IEP) that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The prior written notice generated after the student's February 9, 2022, IEP team meeting reflects the purpose of the meeting was to review assessments, primary disability, Behavior Intervention Plan (BIP), supplementary aids, prevention strategies, and determine recovery services. The IEP team agreed that "while there was a provision of a free and appropriate public education" (FAPE), the student would benefit from recovery services "due to the impact of the virtual nature of learning from March 2020 and June 2021." The IEP team agreed with the decisions, however, the "family's attorney" disagreed with the provision of speech and language services from March 2020-June 2020. The IEP team agreed "that while the exact IEP goal was not addressed as written, the speech and language skill identified in the student's Covid Learning Instructional Plan (CLIP) was implemented and services were provided by the speech pathologist." Additionally, the IEP team discussed different options for the provision of recovery services including "small group instruction, kitchen group for related services, and the after school program with transportation." The IEP team reviewed the student's "Educational Assessment (1/7/22), Psychological Assessment (11/30/22), Expressive/Receptive Language Assessment (12/23/21), Fine Motor Assessment (10/26/2021), Special Education Progress Report (1/4/22), BIP (1/18/2022), SY 2019-2020, 2020-2021, and 2021-2022 Attendance, and input from the team including the Parent. There is no documentation that the IEP team reviewed data prior to March 2020.
2. The prior written notice generated after the student's May 17, 2022, IEP team meeting reflects the purpose of the meeting was to review and revise the student's IEP "goals, supplementary aids, services, BIP, prevention strategies, order assistive technology trial, diploma track, Extended School Year, and compensatory education/recovery services." The IEP team noted "compensatory and recovery services were discussed at the prior meeting."
3. There is no documentation that the IEP team made a final determination as to the amount and type of recovery services to be provided to the student.

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**CONCLUSION:**

Based upon the Findings of Fact #1- #3, the MSDE finds that the BCPS did not ensure that the decisions regarding recovery services made on February 9, 2022, were consistent with the needs of the student, in accordance with 34 CFR §§300.101 and 324. Therefore, this office finds that a violation occurred with respect to the 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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The MSDE has established reasonable time frames below to ensure that non-compliance 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 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.<sup>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [Diane.Eisenstadt@maryland.gov](mailto:Diane.Eisenstadt@maryland.gov).

The MSDE requires the BCPS to convene an IEP team meeting to finalize the recovery services discussion no later than August 1, 2022.

The BCPS must ensure that the parents are provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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<sup>1</sup> 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, 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.

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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/tg

c: Sonja Santelises  
Christa McGonigal  
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Gerald Loiacono  
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