



November 21, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Dr. Allison Myers
Executive Director
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 W Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #23- 054

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 September 30, 2022, the MSDE received a complaint from Ms. [REDACTED] the “complainant,” on behalf of her son. In that correspondence, the complainant alleged that the Baltimore County Public School (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 has not provided the student with a Free Appropriate Public Education (FAPE) in the educational placement required by the Individualized Education Program, since March 23, 2022, in accordance with 34 CFR §§300.101 and .323, and §§300.114, and .116.

BACKGROUND:

The student is seven (7) years old and is identified as a student with Autism under the IDEA. He attended [REDACTED] School for the 2021- 2022 school year and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. An IEP was developed for the student on February 15, 2022, which reflects identified needs in the areas of reading comprehension, math, communication, and social-emotional/behavioral. The IEP includes goals to address those needs, as well as supplemental aids, support, and instructional accommodations. The IEP requires special education instruction by a special educator in a private separate day school, however, the student was on Home and Hospital Teaching (HHT) until

May 16, 2022. Additionally, the student receives occupational therapy, speech/language, and transportation as related services. The student also meets the criteria to participate in extended school year (ESY) services.

2. On February 15, 2022, the IEP team met to review and discuss the results of completed assessment reports conducted on the student to determine continued eligibility for special education and related services. The IEP team also reviewed and revised the IEP. During the meeting, the IEP team agreed the current school could not implement the student's current IEP and recommended placement in a private separate special education day school.
3. The parent requested Applied Behavior Analysis (ABA) services to be added to the student's IEP, and the team agreed. The parents also requested for their in-home Registered Behavior Therapist (RBT) or Board Certified Behavior Analyst (BCBA) who works with the student added to the IEP as a dedicated aide to work with the student at the nonpublic school. The school team informed the parent they cannot make that request. The school team agreed to add a consultation between the private behavior therapist and school staff.
4. The BCPS submitted referral packets to three nonpublic schools. The student was not accepted into the schools.
5. There is documentation dated August 16, 2022, from the Least Restrictive Environment (LRE) and Placement Coordinator to the IEP Chairperson of ██████████ School that a nonpublic placement for the student may not be available before the start of the new school year on August 29, 2022, due to the student not receiving an acceptance letter from an approved nonpublic school and that ██████████ School would need to continue to plan for the student's educational program until a nonpublic school accepted the student. It was advised for the student to continue in the program he was in on the last day of the school year 2021- 2022.
6. On August 22, 2022, the student received an acceptance letter from the ██████████ ██████████ with a start date of November 7, 2022.
7. The ██████████ School requested an IEP meeting for August 24, 2022, to discuss how to deliver FAPE to the student prior to the start date of the approved nonpublic school. There is documentation of the parent canceling the meeting but rescheduling for September 9, 2022.
8. On September 9, 2022, an IEP meeting was held to discuss options to provide FAPE to the student as he awaited his start date in the ██████████ ██████████. The school staff proposed several options for the student that modified the typical program at ██████████ until he was able to begin at the nonpublic placement. All options were rejected by the student's parent, advocate, and BCBA. Additional home and hospital services were proposed by the family, but it was denied as the student's pediatrician and psychiatrist did not approve as there were no documented reasons for the extension. Due to an incident during the meeting, a final decision for the implementation of FAPE was not agreed upon.
9. There is documentation that the school team requested an additional IEP meeting with the parents after the meeting held on September 9, 2022, abruptly ended. The school team proposed October 4, 2022, or Oct. 6, 2022. The parent refused to meet with the school team unless there was a temporary placement other than ██████████ School.
10. On October 17, 2022, the IEP team reconvened to continue the discussion regarding the student receiving FAPE as he awaited entrance into his new placement. The school staff proposed four

different options. There is documentation that the parents rejected the additional adjustments offered by the BCPS.

11. There is documentation on November 1, 2022, that the parent requested a new start date to the [REDACTED] until the start of January due to the parent's concerns around the student's health.

DISCUSSION/ CONCLUSION

When determining a student's LRE, a public agency must ensure that a continuum of alternative placements is available to the extent necessary to implement the IEP and meet the needs of students with disabilities for special education and related services. Additionally, the educational placement decision of a student with a disability is made by the IEP team based on the student's IEP, with consideration given to any potential effect on the student or on the quality of services that the student needs. (COMAR 13A.05.01.10).

Allegation #1: PROVISION OF FAPE

Based on the Findings of Facts #1 to #11, the MSDE finds that the BCPS has provided the student with a Free Appropriate Public Education (FAPE) in the educational placement required by the Individualized Education Program, since March 23, 2022, in accordance with 34 CFR §§300.101 and .323, and §§300.114, and .116. Therefore, the MSDE 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.

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

MF/sj

c: Darryl Williams
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