



Mohammed Choudhury
State Superintendent of Schools

March 10, 2023



Dr. Courtney Hill
Baltimore City Public School
200 E. North Avenue, Room 204 B
Baltimore, Maryland 21202

RE: [REDACTED]
Reference: #23-125

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.

ALLEGATIONS:

On January 11, 2023, MSDE received a complaint from Ms. [REDACTED], “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.

MSDE investigated the following allegations:

1. The BCPS did not ensure that the Individualized Education Program (IEP) contains appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance from October 8, 2022, to December 22, 2022, in accordance with 34 CFR §300.320.
2. The BCPS did not ensure that the student’s IEP was reviewed and revised to address his lack of expected progress toward achieving the IEP goals since the start of the 2022- 2023¹ school year, in accordance with 34 CFR §300.324.

¹ While the complainant alleged that the violation has been ongoing prior to this date, MSDE only has authority to investigate allegations of a violation that occurred no more than one year from the date the complaint was received. 34 CFR §300.153.

3. The BCPS did not ensure that the student's IEP identifies and addresses the student's transition and speech and language needs, since the start of the 2022- 2023² school year, in accordance with 34 CFR §300.324.
4. The BCPS did not provide the parent with a copy of the completed IEP document within five business days after IEP team meetings convened since the start of the 2022-2023 school year, in accordance with COMAR 13A.05.01.07.
5. The BCPS did not provide proper written notice of the IEP team decisions from the IEP team meeting on December 22, 2022, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is twenty (20) years old and is identified as a student with Autism under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

ALLEGATION #1: DEVELOPMENT AND IMPLEMENTATION OF THE IEP

1. The student's IEP in effect on Oct 8, 2022, contains present levels of academic achievement and functional performance and goals that were developed on October 6, 2021. The IEP reflects that the student requires support in the areas of cognitive, reading, reading comprehension, math calculation, math problem solving, written expression, written mechanics, physical education, and speech and language as a related service.
2. There is documentation the IEP team met on October 7, 2022, October 28, 2022, November 11, 2022, and December 22, 2022, to review and revise, as appropriate, the student's IEP and address parent concerns.
3. The IEP developed on December 22, 2022 including updated goals in the areas of reading, math, writing, transition, and speech and language.
4. The BCPS acknowledges that the student's IEP does not contain appropriate measurable goals and a statement of the student's present levels of academic achievement and functional performance from October 8, 2022, to December 22, 2022.

CONCLUSIONS:

Based upon the Findings of Facts #1- #4, MSDE finds that the BCPS did not ensure that the IEP contains appropriate measurable goals and a statement of the student's present levels of academic achievement and functional performance from October 8, 2022, to December 22, 2022, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation did occur with respect to this aspect of the allegation.

ALLEGATION #2: ADDRESSING THE LACK OF EXPECTED PROGRESS

5. The reports of the student's progress towards his annual written expression goal dated September

² MSDE has authority to investigate allegations of a violation that occurred no more than one (1) year from the date the complaint was received.

16, 2022, October 7, 2022, November 1, 2022, reflect that the student was making “sufficient progress” or “achieved” to meet his goal. Specifically, “[t]he student is making progress on this achieved skill with teacher support, as is indicated in the goal.” There is no documentation that the report of the student’s progress towards achievement of the annual goals was measured as described in the IEP.

6. The reports of the student’s progress towards his annual reading comprehension goal dated September 16, 2022, October 7, 2022, November 1, 2022, reflect that the student was making “sufficient progress” or “achieved” his goal. Specifically, “[t]he student has achieved these objectives but he has higher accuracy with answering questions when he gets more support.” There is no documentation that the report of the student’s progress towards achievement of the annual goals was measured as described in the IEP.
7. The reports of the student’s progress towards his annual math problem solving goal dated September 16, 2022, October 7, 2022, November 1, 2022, reflect that the student was making “sufficient progress” or “achieved” his goal. Specifically, “[t]he student continues to make progress on the goal that he has achieved, answering questions with 80% accuracy. However, he needs continued practice with coins and their values.”
8. There is documentation that the annual IEP for school year 2022- 2023 was finalized on December 22, 2022 in which the student progress report indicated that each goal was a “Newly Introduced skill; progress not measurable at this time” as the end of the second quarter marking period ended January 2023.

CONCLUSION:

In this case, the complainant alleges that the BCPS did not ensure that the student’s IEP was reviewed and revised to address his lack of expected progress toward achieving the IEP goals since the start of the 2022-2023 school year, in accordance with 34 CFR §300.324.

The BCPS must ensure the provision of written information about the student’s progress toward their IEP goals and that the written information is based on the data collection method required by the IEP (34 CFR §§300.101, .320, and .323).

Based on Findings of Facts #5 - #7, MSDE finds that although the reports of the student’s progress towards achievement of the annual IEP goals during the 2022 - 2023 school year stated the student was “making sufficient progress to meet the goal” and would not have warranted the IEP team to meet to address a lack of progress, they did not contain written information about the student’s progress toward their IEP goals. Additionally, the written information is not based on the data collection method required by the IEP. Therefore, this office finds that a violation did occur with respect to this aspect of the allegation.

ALLEGATION #3: IEP THAT ADDRESSES THE STUDENT’S NEEDS

9. On February 11, 2022, the IEP met to discuss the parent’s concerns, review, and revise the student’s IEP, as appropriate. The parent disagreed with the IEP team's decision to maintain direct speech-language services at the rate of 30 minutes per week and recommended an increase in this service. The team considered and rejected the parent's request to increase direct speech therapy services based on the Speech/Language progress report, the student’s present level of performance, the change to one objective under the Expressive Language goal and the progress report on IEP goals stating the student making sufficient progress on his Speech/Language goals while receiving the

current rate of 30 minutes per week of direct Speech/Language therapy. The school-based staff discussed that “additional direct therapy is not the best method to promote carryover of skills from therapy session to other settings and it is better achieved through the provision of consultative services from the speech pathologist to the teachers and parent.”

10. The IEP team maintained direct Speech/Language services outside general education at the rate of 30 minutes per week and added the supplementary aid of indirect speech-language services at the rate of 1 hour per month to support classroom instruction for access.
11. During the February 11, 2022, meeting, the IEP team discussed transition services by reviewing the updated transition assessments the student participated in on February 3, 2022. The team made revisions to the post-secondary transition goals and activities to align them based on the student’s Pictorial Interest Inventory and a transition interview with input from the parent during the October 19, 2021, meeting.
12. The IEP team met on December 22, 2022, to review and revise, as appropriate, the student’s IEP, consider reevaluation assessments, discuss transition planning, and extended school year. During the meeting the IEP team increased the amount of speech and language services received from 30 minutes a week to two 30-minute sessions a week, revised the student’s Speech and Language goal, updated his transition activities to align with goals requiring additional service time. The team also included post-secondary transition goals aligned with related services and instructional goals as well as included additional total communication support.

CONCLUSION:

Based on Findings of Facts #9 - #12, MSDE finds the BCPS did ensure that the student’s IEP identifies and addresses the student’s transition and speech and language needs, since the start of the 2021- 2022 school year, 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.

ALLEGATION #4: PROVISION OF COMPLETED IEP

13. The BCPS acknowledges that the BCPS did not provide the parent with a copy of the completed IEP document within five business days after IEP team meetings convened since the start of the 2022-2023 school year.
14. There is documentation that the parent received a copy of the completed IEP document on February 3, 2023, via mail and on February 9, 2023, via the student’s bookbag.

CONCLUSIONS:

Based upon the Findings of Facts #13 and #14, MSDE finds that the BCPS did not provide the parent with a copy of the completed IEP document within five business days after IEP team meetings convened since the start of the 2022-2023 school year, in accordance with COMAR 13A.05.01.07. MSDE appreciates the BCPS’ acknowledgment and concurs that a violation occurred with respect to this aspect of the allegation.

Notwithstanding the violation based upon Findings of Fact #14, MSDE finds that the BCPS provided the parent a copy of the completed IEP on February 3, 2023, and February 9, 2023. Therefore, no further student-specific corrective action is required.

ALLEGATION #5: PROVISION OF PROPER WRITTEN NOTICE OF THE IEP TEAM DECISION

15. There is documentation that the parent received the proper written notice of the IEP team decisions from the IEP team meeting on December 22, 2022, on February 3, 2023, via mail, and on February 9, 2023, via the student's bookbag.

CONCLUSION:

Based on Findings of Fact #15, MSDE finds BCPS did not provide proper written notice of the IEP team decisions from the IEP team meeting on December 22, 2022, until February 3 and February 9, 2023, prior to implementing the student's revised IEP, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this aspect of 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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.³ This office will follow up with the public agency to ensure that it completes the required actions consistent with 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.⁴ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

MSDE requires the BCPS to provide documentation by April 24, 2023, of the following actions:

- a. That the IEP team has convened to determine whether the violations related to the delay in reviewing the student's annual academic IEP goals had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings;
- b. The IEP team must address parent concerns regarding the student's transition plan and invite the appropriate adult agencies to assist with transition planning; and

³ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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, 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.

⁴ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

- c. Provided documentation that the student's progress towards achievement of the IEP goals is being reported to the parent in the manner required by the IEP during the 2022-2023 school year.

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

School-Based

MSDE requires the BCPS to provide documentation by April 30, 2023, of a plan that includes a timeline in which the BCPS must provide training to the school staff regarding the proper procedures of documenting and providing the required documents that are to be given to the family before and after IEP meetings; that student's IEPs are reviewed at least annually; and that present levels contain current information. Additionally, BCPS must complete an audit of 25 randomly selected IEPs at [REDACTED] School to ensure that they have been reviewed at least annually and that the present levels on the selected IEPs have been updated with current information. The results of the audit must be provided to MSDE by May 15, 2023.

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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DC/sj

- c: Sonja Santelises
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