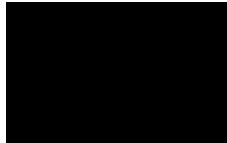




May 24, 2023



Ms. Allison Myers, Executive Director
Baltimore County Public Schools
Department of Special Education
Jefferson Building, 4th Floor
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #23-189

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 March 29, 2023, MSDE received a complaint from Mr. [REDACTED] and Ms. [REDACTED], hereafter, "the complainants", on behalf of their daughter, 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 Education Act (IDEA) with respect to the above-referenced student:

MSDE investigated the following allegations:

1. The BCPS did not ensure that information was provided about the individuals who would be attending the September 29, 2022, IEP team meeting in writing no less than ten days before the meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
2. The BCPS did not ensure that the parents were afforded the opportunity to participate in the IEP team meeting convened on September 29, 2022, in accordance with 34 CFR §300.501.

BACKGROUND:

The student is fifteen years old and is identified as a student with Autism under the IDEA. She previously attended [REDACTED] and is currently not attending BCPS. She has an IEP that requires the provision of specialized instruction and related services.

FINDINGS OF FACTS:

1. There is documentation that on September 12, 2022, the complainants were provided with notice of the September 29, 2022, IEP team meeting. The notice reflects that the following participants were expected to attend:
 - Administrator/Designee
 - Special Educator
 - General Educator
 - Student
 - Parents
 - [REDACTED]
 - Advocate
 - Social Worker
 - Guidance-Secondary
 - School Psychologist
 - Special Ed-Inclusion

2. There is documentation that on September 22, 2022, the complainants were provided with an updated notice of the September 29, 2022, IEP team meeting. The notice reflects that the following participants were expected to attend:
 - Administrator/Designee
 - Special Educator
 - General Educator
 - Student
 - Parents
 - [REDACTED]
 - Advocate
 - Social Worker
 - Guidance-Secondary
 - School Psychologist
 - Special Ed-Inclusion
 - Specialist

3. On September 23, 2022, the complainants emailed the BCPS school staff expressing a conflict of interest with the BCPS Specialist. BCPS staff responded that there was no conflict of interest. The complainant disagreed and requested the Specialist not participate in the IEP team meeting.

4. On September 28, 2022, the complainants' advocate emailed the BCPS staff requesting the Specialist not participate in the meeting. The email also reflects that the complainants would not participate in the meeting if the Specialist participated. The Specialist responded indicating the purpose of her participation was to facilitate the meeting. The complainants objected to the Specialist participating.

5. On September 28, 2022, the complainants' advocate emailed the BCPS and requested that the BCPS select a different facilitator for the meeting.

6. On September 29, 2022, the complainants' advocate emailed the BCPS and requested that the IEP team meeting be rescheduled to a later date. The BCPS staff replied that the IEP team meeting would move forward as scheduled. Additionally, the complainants emailed the BCPS and expressed displeasure that the IEP team meeting would proceed as scheduled without their participation.

7. On September 29, 2022, the IEP team met to review assessments. The IEP team summary reflects that the Administrator/Designee, Special Educator, General Educator, [REDACTED] worker, student's court appointed lawyer, Social Worker, Guidance-Secondary, School Psychologist, Special Ed-Inclusion, Specialist, BCPS Paralegal, and the student participated in the meeting. The summary further reflects that the parents were invited to the IEP team meeting but requested to cancel the meeting thirty minutes prior to the start. "Since a duly constituted IEP team was gathered for the meeting," the BCPS team proceeded with the meeting.
8. There is documentation of a Baltimore County [REDACTED] dated August 16, 2022, that reflects that the Baltimore County [REDACTED] has temporary limited guardianship for educational decision-making, including the administration of educational services on behalf of the student, if a parent is unavailable, unwilling, or unable to consent to services that are in the best interest of the child. There is no documentation that the complainants were unavailable, unwilling, or unable to consent to services for the student.
9. There is documentation that the IEP team met on October 28, 2022, to conduct an annual review, discuss extended school year, and develop a transition plan. The IEP Team Summary drafted after the meeting reflects the complainant logged into the meeting and expressed concerns regarding the student changing school placements. The complainant further expressed that the advocate would participate in the meeting on her behalf. The IEP team revised the student's IEP.

CONCLUSIONS:

Allegation #1:

NOTICE OF IEP TEAM PARTICIPANTS

Based upon Findings of Facts #1 and #2, MSDE finds that the BCPS did not ensure that information was provided about the individuals who would be attending the September 29, 2022, IEP team meeting in writing no less than ten days before the meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation has occurred with respect to this allegation.

Allegation #2

PARENT PARTICIPATION IN THE IEP TEAM MEETING

Based on Findings of Facts #3 to #8, MSDE finds that the BCPS did not ensure that the parents were afforded the opportunity to participate in the IEP team meeting convened on September 29, 2022, in accordance with 34 CFR §300.501. Therefore, this office finds that a violation occurred with respect to this allegation.

Notwithstanding the violations, based upon Findings of Fact #9, MSDE finds that the BCPS has convened a subsequent IEP team meeting with the complainants' participation that included the assessment data from the September 29, 2022, IEP team meeting and developed the student's IEP. Therefore, no further student specific corrective action is required.

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 non-compliance is corrected in a timely

manner.¹ 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 Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

MSDE requires the BCPS to provide documentation of professional development completed by July 1, 2023, to ensure that the staff at [REDACTED] and [REDACTED] School properly implements the requirements for the provision of notice of participants in IEP team meetings and the participation of parents in IEP team meetings, under the IDEA. BCPS must also develop a monitoring tool to ensure the consistent provision of IEP team meeting notices for students at [REDACTED] beginning no later than July 1, 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

DMC/tg

c: Darryl Williams
Jason Miller
Allison Myers
Conya Bailey

Charlene Harris
[REDACTED]
Diane Eisenstadt
Nicole Elliott

Alison Barbat
Gerald Loiacono
[REDACTED]
Tracy Givens

¹ 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, 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.

² MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.