



July 14, 2023



Dr. Melissa Brunson
Director of Special Education Services
Washington County Public School
10435 Downsville Pike
Hagerstown, Maryland 21740

RE: [REDACTED]
Reference: #23-237

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 May 18, 2023, MSDE received a complaint from Ms. [REDACTED], the “complainant,” on behalf of her son. In that correspondence, the complainant alleged that the Washington County Public Schools (WCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegation that the WCPS did not ensure that the Individualized Education Program (IEP) team convened to review the student’s IEP before March 29, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 10 years old and is identified as a student with Other Health Impairment under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS

1. The student’s IEP, in effect at the start of the 2022- 2023 school year, was developed on March 30, 2022, with a projected annual review date of March 29, 2023.
2. On February 24, 2023, the complainants received a “Notice of Individualized Education Program (IEP) Team Meeting” proposing an IEP meeting on March 8, 2023, to review the student’s IEP.
3. On March 3, 2023, the complainants provided the school staff a private assessment to be considered by the IEP team.

4. On March 8, 2023, the IEP team met to review and revise the student's IEP, as appropriate, and consider a private assessment completed for the student. During the IEP team meeting, the team reviewed, discussed, and considered "all available information, including formal and informal testing results and team member input" to propose updated IEP goals and objectives for the student. Due to the time constraints, the team proposed reconvening to review the assessment report provided by parents and to make further recommendations for the student's IEP after discussion and review.
5. While there is documentation that the IEP team convened on April 11, 2023, and May 22, 2023, to review and revise the student's IEP, there is no documentation that the IEP team, to date, has reviewed the private assessment provided by the complainants.

CONCLUSIONS:

Based on the Findings of Facts #1 to #5, MSDE finds that the MCPS did not ensure that the IEP team convened to review the student's IEP before March 29, 2023, in order to ensure that the IEP was reviewed at least annually, including a consideration of information provided by the parents, in accordance with 34 CFR §300.324. 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, 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.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 Ms. 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.

Student Specific:

MSDE requires the WCPS to provide documentation by September 1, 2023, that the IEP team has convened, reviewed the information provided by the complainant, updated the IEP with the additional information, as appropriate, and determined whether the violation related to the delay in developing IEP and review of the private evaluation 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 remedy 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.

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.

²MSDE 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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The WCPS 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 Base:

MSDE requires the WCPS to provide documentation by September 30, 2023, of the steps it has taken to ensure that [REDACTED] staff are properly trained on convening timely annual review of student's IEPs and reviewing information provided by parents as a part of the annual review process. The documentation must include a description of how the WCPS will evaluate the effectiveness of the steps taken, including but not limited to professional development, and monitoring to ensure that the violations do not recur. A completed monitoring report reflecting timely annual reviews for students with IEPs at [REDACTED] from the start of the 2023-2024 school year must be submitted to MSDE prior to December 31, 2023. Full compliance is required. If full compliance is not achieved, continued monitoring will take place with a final submission on or before June 15, 2024.

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/sj

c: David Sovine
Jennifer Webster
Brenna Creedon
[REDACTED]
Gerald Loiacono
Paige Bradford
Nicol Elliott
Diane Eisenstadt
Stephanie James