



July 17, 2023

[REDACTED]

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

RE: [REDACTED]
Reference: #23- 240

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 19, 2023, MSDE received a complaint from Ms. [REDACTED] hereafter, “the complainant,” on behalf of her 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 allegation that the BCPS has not ensured that the student was provided with the speech/language services as required by her IEP since the start of the 2022- 2023 school year, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is twelve years old and is identified as a student with a speech/language impairment under the IDEA. She attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student’s IEPs, developed on March 30, 2022, and March 14, 2023, require the student to receive one weekly thirty-minute session of speech and language services outside of the general education classroom provided by a speech and language pathologist.

2. There is no documentation that the student was provided speech and language services as required by the IEP since the start of the 2022- 2023 school year.
3. The Prior Written Notice generated after the June 5, 2023, IEP team meeting reflects that the BCPS “proposed 6 ½ hours of compensatory services to address fluency as it has impacted the student’s participation.” However, there is no reflection of the basis or data relied on for the decision to award this specific amount of compensatory services.

CONCLUSIONS:

Based upon Findings of Facts #1- #3, MSDE finds that the BCPS has not ensured that the student was provided with the speech/language services as required by her IEP since the start of the 2022- 2023 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds a violation occurred with respect to this allegation.

Based on the Finding of Fact #3, MSDE further finds that although the BCPS has convened an IEP team meeting and determined the remedy needed to address the violation with regard to this student as of June 5, 2023, BCPS failed to provide the data relied on to determine that the student was to be provided 6 ½ hours of compensatory services after missing an entire year of speech and language services. While this may be an appropriate amount of service, it is not clear how BCPS made this determination. Therefore, this office finds an additional violation.

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

While MSDE acknowledges that the BCPS has proposed speech and language compensatory services to remedy the violation; however, BCPS did not provide in the prior written notice the data relied on for the

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.

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basis of the compensatory services decision. MSDE requires the BCPS to provide documentation by August 31, 2023, that the IEP team has convened and determined the amount and nature of compensatory services, provides the basis and data relied on to make the decision, and provides documentation at the start of the 2023-2024 school year that the student is receiving the services required by her IEP. BCPS must provide documentation within one year of this letter of finding that the student has received the compensatory services determined by the IEP team in June 2023. The student's parent maintains the right to file mediation and due process in response to this allegation.

System-Wide

MSDE requires the BCPS to inform MSDE at the start of the 2023- 2024 school year of all BCPS schools that have a speech and language pathologist vacancy. MSDE further requires the BCPS to inform all parents and guardians of students who require speech and language services as part of their IEP of the vacancy at the start of the 2023- 2024 school year. In addition, MSDE requires the BCPS to develop and implement an action plan at the start of the 2023- 2024 school year to provide speech and language services. This plan can include contracts with private providers, virtual speech and language service sessions, and reimbursement to parents and guardians until the speech and language vacancy at the school is filled, or other strategies to ensure that students are provided with their speech/language services.

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: sd

c: Darryl Williams Sarah Denney
Conya Bailey Diane Eisenstadt
Charlene Harris Paige Bradford
Gerald Loiacono Alison Barmat
Nicol Elliott