



Mohammed Choudhury  
State Superintendent of Schools

August 7, 2023

Corrected Copy September 21, 2023

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

RE: XXXXX  
Reference: #23- 264

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 June 13, 2023, MSDE received a complaint from Ms. XXXXXXXXXXXX, hereafter, “the complainant,” on behalf of her son, 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 has not developed an Individualized Education Program (IEP) that addressed the student’s identified needs, specifically toileting needs, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .324.
2. The BCPS has not ensured that the student has been consistently provided with special education support, specifically toilet training, as required by the IEP since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323.
3. The BCPS did not follow proper procedures when revising the student’s IEP since May 2023, in accordance with 34 CFR §300.324.
4. The BCPS did not ensure that the parent was provided with appropriate notice of the IEP team meeting convened since May 2023, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.

**BACKGROUND:**

The student is five years old and is identified as a student with Autism under the IDEA. He attends XXXXXXXXX XXXXXXXX School and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATIONS #1 and #2:**

**DEVELOPMENT OF AN IEP THAT ADDRESSES THE STUDENT'S TOILETING NEEDS AND PROVISION OF TOILET TRAINING**

**FINDINGS OF FACTS:**

1. The student's IEPs, developed on May 16, 2022, December 19, 2022, May 23, 2023, and June 9, 2023, reflect the student's toileting needs on the Present Level of Academic Achievement and Functional Performance (PLAAFP) section: "The student needs to learn to communicate his toileting needs and follow toilet training routines."
2. The student's IEPs, developed on May 16, 2022, December 19, 2022, May 23, 2023, and June 9, 2023, require the student to be provided with a daily picture schedule to aid with toilet training.
3. The student's IEP, developed on June 9, 2023, further requires the student to be provided with daily adult support, provided by the general educator, special educator, or the instructional assistant to aid in toileting needs.
4. There is no documentation of the student being provided with the daily picture schedule.
5. There is documentation of the student being provided with daily adult support.

**CONCLUSIONS:**

**Allegation #1:**

**DEVELOPMENT OF AN IEP THAT ADDRESSES THE STUDENT'S TOILETING NEEDS**

Based upon Findings of Facts #1- #3, the BCPS has developed an Individualized Education Program (IEP) that addresses the student's identified needs, specifically toileting needs, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find a violation occurred with respect to allegation #1.

**Allegation #2:**

**PROVISION OF SPECIAL EDUCATION SUPPORT, SPECIFICALLY TOILET TRAINING**

Based upon Findings of Facts #1- #2 and #4, the BCPS has not ensured that the student has been consistently provided with special education supports, specifically the daily picture schedule to aid in toilet training, as required by the 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 allegation #4.

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**ALLEGATIONS #3 and #4:**

**PROPER PROCEDURES WHEN REVISING THE STUDENT’S IEP AND PROVISION OF THE MAY 2023 IEP TEAM NOTICE**

**FINDINGS OF FACTS:**

6. On December 19, 2022, the IEP team met and conducted the student’s annual review.
7. There is documentation that an IEP team meeting was held on May 23, 2023, with the proposed purpose of reviewing and/or revising the student’s IEP. There is documentation that a Parent Notification of IEP Team Meeting notice was sent to the complainant on May 9, 2023. The notice further reflects that a message was left on May 18, 2023, with the complainant indicating the date and time of the meeting.
8. On May 23, 2023, the IEP team met and discussed the student progressing from the Outside General Education (OGE) 4 program XXXXXXXXXXXXXXXXXXXX School to XXXXXXXXXXXXXXXXXXXX School for the 2023- 2024 school year, parental concerns, the student’s progress towards his IEP goals, the student’s strengths, and the needs of the student. They also reviewed and revised the student’s IEP.
9. The May 25, 2023, meeting between BCPS school staff and the complainant was not an IEP team meeting. Therefore, BCPS was not required to provide the complainant with advance notice of the meeting.
10. There is documentation that an IEP team meeting was held on June 9, 2023, with the proposed purpose of reviewing and/or revising the student’s IEP. There is documentation that a Parent Notification of the IEP Team Meeting notice was sent to the student’s parents on June 5, 2023. The notice further reflects that the student’s parents were contacted on June 5, 2023, and that the student’s parents agreed to the date and time of the meeting and waived their right to ten days' notice.
11. On June 9, 2023, the IEP “team met to review updates to the student’s IEP and to discuss parent concerns related to the student’s progression to kindergarten at Edmondson Heights Elementary.” The team updated the student’s PLAAFP section of the IEP to reflect his current progress and data. The team updated the student’s Supplementary Aids to reflect his needs related to the “Additional Adult Support.” The IEP team also discussed the student’s progress toward his IEP goals and his strengths and needs.

**CONCLUSIONS:**

**Allegation #3:**

**PROPER PROCEDURES WHEN REVISING THE STUDENT’S IEP**

The child’s IEP must be reviewed periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. Furthermore, the IEP must be revised to address any lack of expected progress toward the annual goals described in the IEP and general education curriculum, if appropriate; the results of any new evaluations; information about the child provided to, or by, the parents; and the child’s anticipated needs.

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Based upon Findings of Facts #6, #8 and #11, the BCPS did follow proper procedures when revising the student's IEP since May 2023, in accordance with 34 CFR §300.324. Therefore, this office does not find a violation occurred with respect to allegation #3.

**Allegation #4: PROVISION OF THE MAY 2023 IEP TEAM NOTICE**

Based upon Findings of Facts #7, #9, and #10, the BCPS **did ensure** that the parent was provided with appropriate notice of the IEP team meeting convened since May 2023, in accordance with 34 CFR§300.322 and COMAR 13A.05.01.07. Although the parent did not receive notification of the meeting at least ten days in advance, there is documentation that the parent waived receipt of proper notice prior to the meeting, and the meeting was scheduled at a mutually agreeable date and time with the parent. Therefore, this office **does not find** a violation occurred with respect to allegation #4.

**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.<sup>1</sup> This office will follow up with the public agency to ensure that it completes the required actions consistent with the 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.<sup>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

**Student Specific**

MSDE requires **the BCPS** to provide documentation by September 29, 2023, that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the violations regarding the lack of the provision of the daily picture schedule to assist with toileting and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

**School Based**

**MSDE requires the BCPS to provide documentation by November 1, 2023, of the steps taken to ensure that the violation regarding the lack of implementation of supplementary aids does not recur at XXXXXXXXX XXXXXXXX School. Those steps must include staff development.**

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<sup>1</sup> 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, the 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.

<sup>2</sup> 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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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  
Conya Bailey  
Charlene Harris  
Jason Miller  
XXXXXXXXXX  
XXXXXXXXXX  
Alison Barmat  
Gerald Loiacono  
Diane Eisenstadt  
Sarah Denney  
Paige Bradford  
Nicol Elliott