



December 8, 2023



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

RE: [REDACTED]  
Reference: #24-054

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 October 18, 2023, MSDE received a complaint from Ms. [REDACTED] hereafter, “the complainant,” on behalf of her son. In that correspondence, the complainant alleged that the Baltimore County Public School (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 did not follow proper procedures when responding to a request for an IEP team meeting on August 16, 2023, September 15, 2023, and October 10, 2023, in accordance with 34 CFR §§300.148 and 503.

**BACKGROUND:**

The student is thirteen years old and is unilaterally placed by his parent at the [REDACTED] for the 2023-2024 school year. He is identified as a student with Specific Learning Disability (SLD) under the IDEA and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

**ALLEGATION #1: PROPER PROCEDURES WHEN RESPONDING TO AN IEP MEETING REQUEST**

1. After meeting on November 11, 2022, January 9, 2023, and February 10, 2023, the IEP team met on March 10, 2023, to review and revise the student’s IEP, and to discuss how the student’s proposed IEP services and supplementary aids that would be provided in the middle school setting. The IEP

team included an assistant principal from the student's proposed middle school in order to provide a response to the parent's concerns and to explain how the student's services would be provided in the middle school setting. The parent did not agree with the proposed provision of FAPE that was shared at that meeting and expressed disagreement with the student's most recent psychological assessment.

2. On August 15, 2023, in a letter sent to the BCPS Department of Special Education, the complainant stated that she would not be returning her son to BCPS at the proposed middle school as it was her intention for the student to remain unilaterally placed at The [REDACTED] at public expense. The complainant again reiterated her disagreement with the student's most recent psychological assessment.

#### **August 16, 2023, IEP Meeting Request**

3. On August 16, 2023, the complainant emailed BCPS district staff requesting a meeting to address all of her concerns. On August 19, 2023, BCPS district staff responded to the complainant and requested an opportunity to speak with her.
4. On August 24, 2023, the complainant spoke with BCPS district staff and sent a follow-up email on September 3, 2023, expressing her continued concerns. The BCPS district staff member responded to the complainant's email and asked for another opportunity to "...clarify [their] discussion and answer the questions that were not addressed." The complainant and the BCPS staff member attempted to speak by telephone regarding the complainant's concerns through September 19, 2023. No documentation received reflects that the complainant and the BCPS district staff member held this discussion.

#### **September 15, 2023, IEP Meeting Request**

5. On September 15, 2023, the complainant sent an email to the assistant principal at the student's proposed middle school requesting an IEP meeting. The assistant principal did not respond to the complainant's request.

#### **October 10, 2023, Meeting Request**

6. On October 10, 2023, the complainant reached out to BCPS district staff stating that she had made two requests for an IEP meeting and had not received a meeting date. She further stated that BCPS district staff had told the complainant to request a meeting with the school that her son would attend if he was still in a BCPS school, which she did. The complainant requested to "...set up a meeting [with the BCPS district staff member] to discuss [her] concerns..."
7. Prior to November 6, 2023, the assistant principal at the students' proposed middle school reached out to the complainant in an attempt to speak with her regarding her IEP team meeting request. In his follow-up response, the assistant principal asked the complainant if she had any intention of enrolling her son in a BCPS school. The complainant responded by stating that she has a right to request an IEP team meeting at the student's home school no matter what her intentions for enrollment may be, and the school system is required to schedule one.

8. On November 20, 2023, the assistant principal at the student's proposed middle school sent the complainant an email stating that it was his understanding that an IEP team meeting would not be held due to the student not being enrolled in a BCPS school by parent choice. The complainant responded by stating that she had not enrolled the student in a BCPS school due to the disagreement about the student's IEP and being denied a meeting.
9. There is no further documentation of a response to the complainant's request, nor the convening of an IEP meeting.

**CONCLUSION:**

An LEA must make an offer of FAPE available to a child whose parents have elected to place the child in a private school or facility. (34 CFR § 300.148) Once FAPE has been made available by the LEA and denied by the parents, prior written notice must be given to the parents a reasonable time before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (34 CFR § 300.503)

Prior to the complainant's August 18, 2023, ten-day notice documenting that she would not be enrolling the student into a BCPS school, the IEP team for this student had met four times to review and revise the student's IEP for the 2023-2024 school year and to address the provision of FAPE for the student. At those IEP team meetings, the complainant had an opportunity to have any questions and concerns responded to by the assistant principal at the proposed middle school that the student would attend were he to return to BCPS and the team at the student's service elementary school. The complainant also had at least one conversation with BCPS district staff regarding her concerns; and on October 10, 2023, requested a meeting with BCPS district staff to discuss her concerns outside of an IEP meeting.

If the BCPS was not going to meet with the complainant again regarding her concerns, it had the obligation to provide the complainant prior written notice that provides a description of the action proposed or refused by the BCPS; an explanation of why the BCPS proposes or refuses to take the action; a description of each evaluation procedure, assessment, record, or report the BCPS used as a basis for the proposed or refused action; a statement that the parents of a child with a disability have protection under the procedural safeguards; a means by which a copy of a description of the procedural safeguards can be obtained; sources for parents to contact to obtain assistance in understanding this information; a description of other options that the IEP team considered and the reasons why those options were rejected; and a description of other factors that are relevant to the BCPS's proposal or refusal.

Based on the Finding of Facts # 1 to #9, MSDE finds the BCPS did not follow proper procedures when responding to a request for an IEP team meeting on August 16, 2023, and September 15, 2023, in accordance with 34 CFR §§300.148 and 503. 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.<sup>1</sup> 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.<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 that by January 8, 2023, the BCPS provide the complainant with appropriate prior written notice of its denial to convene an IEP meeting for this student, or they must convene an IEP team meeting as the complainant requested.

**School-Based:**

MSDE requires that by March 8, 2023, the BCPS provide documentation of professional development provided to IEP team members at [REDACTED] School that reflects situations in which prior written notice is required to be provided and the contents therein.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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

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<sup>1</sup> 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, 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> The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

[REDACTED]  
Ms. Allison Myers  
December 8, 2023  
Page 5

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

Sincerely,

Antoine L. Hickman, Ed.D.  
Assistant State Superintendent  
Division of Early Intervention and Special Education Services

ALH/ebh

c: Myriam Rogers  
Allison Myers  
Charlene Harris  
Jason Miller  
Norma Villanueva  
Conya Bailey  
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Alison Barmat  
Nicole Elliott  
Paige Bradford  
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Elizabeth B. Hendricks