

April 2, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]

Denise L. Parker-Shields  
Interim Director  
Baltimore Infants and Toddlers Program  
3002 Druid Park Drive  
Baltimore, Maryland 21215

RE: [REDACTED]  
Reference: #24-142

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 February 6, 2024, MSDE received a complaint from Ms. [REDACTED], “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore Infants and Toddlers Program (BCITP) violated certain provisions of Part C of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegation that the (BCITP) did not ensure that the evaluation of the child was completed within the required timelines, in accordance with 34 CFR §300.301 and COMAR 13A.05.01.06.<sup>1</sup>

**BACKGROUND:**

The child is six months old and received services under Part C of the IDEA based on a physical condition demonstrating atypical development, and has an Individualized Family Service Plan (IFSP) that requires the provision of early intervention services.

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<sup>1</sup> The initiation letter inaccurately cited regulations pertaining to the same requirements under Part B of the IDEA. The correct citations are: 34 CFR § 303.310 and COMAR 13A.13.01.05. The correction citations will be used in the conclusions of this letter.

**FINDINGS OF FACTS:**

1. On November 14, 2023, the complainant submitted an online referral to the Maryland Infants and Toddlers Program (MITP) due to parental concern regarding the child's gross motor development and medical diagnosis.
2. On November 30, 2023, the complainant completed the intake process via a phone call with the Baltimore Infants and Toddlers Program (BCITP) staff. The complainant received notification via email that the student was scheduled for an initial eligibility assessment to be conducted at home on January 16, 2024, after the initial phone call.
3. On January 15, 2024, the initial eligibility assessment for the student was canceled due to inclement weather that resulted in the closure of Baltimore County Public Schools for the day. The complainant received information via voicemail on how to reschedule the appointment.
4. On February 1, 2024, a member of BCITP contacted the complainant to reschedule the canceled appointment. The complainant informed the staff member that she would still prefer an in-home assessment. However, due to the complainant's zip code, there were no upcoming appointments available. The complainant was informed that she would "receive a call" once the April calendar was open for appointments.
5. On February 13, 2024, a member of BCITP contacted the complainant to schedule an assessment; however, the complainant was unavailable at the time.
6. On February 14, 2024, the child received a rescheduled initial eligibility assessment for April 9, 2024, to be conducted in his home.
7. On February 26, 2024, a member of BCITP contacted the complainant to schedule the assessment for an earlier date than April 9, 2024. The complainant was presented with two options: March 5, 2024, or March 12, 2024. The complainant agreed to either date and received confirmation that the student was now scheduled to receive his assessment on March 5, 2024.
8. On March 5, 2024, when the child was six months old, an evaluation was conducted. The evaluation team identified the child as eligible for early intervention services. An IFSP was developed, which contained the major outcomes to be achieved, specific services to be provided, the location and duration of those services, and identified the service coordinator. The IFSP requires the child receive 16 sessions of physical therapy weekly for 30 minutes weekly in the child's home.

**CONCLUSION:**

**ALLEGATION #1**

**EVALUATION TIMELINE**

Early intervention services are provided to children with disabilities, from birth through the age of two (2) years old, through the Infants and Toddlers Program under Part C of the IDEA. This determination is made because these children are experiencing developmental delays or have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. Early intervention services are

continuous services that are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development (34 CFR §§303.13, .21, and COMAR 13A.13.01.01-.03).

A timely and comprehensive multidisciplinary evaluation of each child and a family-directed identification of needs must be conducted to appropriately assist in the development of the child (20 U.S.C. §§1435(a)). Within forty-five (45) days after a referral is received, the local lead agency must ensure that evaluation and assessment activities are completed and an IFSP developed for a child who has been determined to be eligible for early intervention services (COMAR 13A.13.01.07).

Based on Finding of Facts #1 to #8, MSDE finds that the BCITP did not ensure that the evaluation and development of the IFSP for the child was completed within the required timelines, in accordance with COMAR 13A.13.01.05. Therefore, this office finds that a violation occurred concerning 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>2</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. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Barmat can be reached at (410) 767-7770 or by email at [Alison.barmat@maryland.gov](mailto:Alison.barmat@maryland.gov).

**Student-Specific**

MSDE requires the BCITP to provide documentation by May 1, 2024, that the IFSP team has convened to determine the amount and nature of compensatory services or other remedy to redress the delay of completing the initial evaluation and IFSP for the child within the required timeline, and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

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<sup>2</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, 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>3</sup> MSDE will notify the public agency's Director of Baltimore Infants and Toddlers Program of any corrective action that has not been completed within the established timeframe.

The BCITP must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

**Systemic**

MSDE further requires that BCITP conduct monitoring activities from the date of this letter and provide quarterly reporting to MSDE regarding the timely initial evaluation and development of initial IFSPs from the date of referral. BCITP must provide MSDE with data reflecting the dates of initial referral, the dates of completion of the initial evaluation, the results of the initial evaluation, and the date of the development of the child's initial IFSP (as appropriate). Monitoring reports must be submitted quarterly on or before July 1, 2024, November 30, 2024, March 1, 2025, and June 30, 2025.

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,

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

ALH/sj

- c: Daphne Hicks, Director of Administration, BCITP
- Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
- Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
- Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
- Marny Helfrich, Section Chief, Early Childhood, MSDE
- Tracy Givens, Section Chief, Dispute Resolution, MSDE
- Stephanie James, Complaint Investigator, MSDE