

April 29, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Denise Parker- Shields
Interim Director
Baltimore City Infants and Toddlers Program
3002 Druid Park Drive #1
Baltimore, Maryland 21215

RE: [REDACTED]
Reference: #24- 154

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 February 29, 2024, MSDE received a complaint from [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Infant and Toddlers Program (BCITP) 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 BCITP has not ensured that the student has been consistently provided with recommended services, including family counseling/training, as required by the Individualized Family Service Plan (IFSP), since October 2023, in accordance with 34 CFR §§303.342 and .344.
2. The BCITP has not ensured that the student has been assigned a service coordinator as required by the IFSP, since October 2023, in accordance with 34 CFR §303.344.
3. Since October 2023, the BCITP has not provided the parent with a completed copy of the student’s IFSP in accordance with 34 CFR §§303.400 and .409.

BACKGROUND:

The student is three years old, and she receives services at home and a private daycare. The student resides in Baltimore City. She is identified as a student with a [REDACTED] under the IDEA and has an IFSP that requires the provision of related services and special instruction.

FINDINGS OF FACTS:

1. The student's IFSP, in effect in October 2023, was developed on January 5, 2021, and reflects that the student was assessed in January 2021 in cognitive, communication, social/emotional, adaptive, fine motor, and gross motor skills.

The student's IFSP requires:

- a. From January 5, 2021- January 5, 2022:
 - i. Family Counseling/Training for 45 minutes monthly; and
 - ii. Occupational Therapy (OT) for 24 sessions of 30 minutes.

The student's IFSP reflects that the student was assigned a service coordinator.

2. There is documentation that the student was administered the Developmental Assessment of Young Children-2 (DAYC-2) assessment on October 11, 2023. There is documentation that an Infant and Toddler Therapy Review reports were completed for OT on October 13, 2023, and for Physical Therapy (PT) on October 18, 2023.
3. On October 19, 2023, the IFSP team met for the student's transition meeting. There is documentation that the meeting should have taken place no fewer than 90 days and not more than nine months before the student's third birthday on November 5, 2023.
4. On November 2, 2023, the IFSP team met with the purpose of conducting the transition meeting from Part C to Part B. The Prior Written Notice (PWN) generated after this meeting reflects that "based on a review of the data presented by Baltimore City Infant and Toddlers Program and discussion with team members present including the special educator, general educator, principal designee, speech pathologist, and occupational therapist," the team determined that [the student] is eligible for services under Part B with a disability code of 15- Developmental Delay.
5. There is documentation that on November 6, 2023, after the student's eligibility determination, an Educational Assessment was completed as part of the Part C to B Transition.
6. The student's IFSP, developed on March 11, 2024, reflects that the student was assessed in the areas of cognitive, communication, social/emotional, adaptive, fine motor, and gross motor skills in October and November 2023.

The student's IFSP requires:

- a. From March 11, 2024- August 2024:
 - i. Family Counseling/Training for 45 minutes monthly;
 - ii. OT for 24 sessions of 30 minutes; and
 - iii. PT for 20 sessions of 30 minutes.

- b. From March 12, 2024: Special Instruction for 20 sessions of 30 minutes.
- c. From April 5, 2024: Speech/Language Therapy for six sessions of 30 minutes.

The student's IFSP reflects that the student was assigned a service coordinator.

- 7. There is documentation that on March 11, 2024, the completed IFSP was provided to the complainant.
- 8. There is documentation that the assigned service coordinator contacted the complainant on October 16, 2023; October 19, 2023; December 6, 2023; February 29, 2024; March 7, 2024; and March 11, 2024, to provide family counseling/training.
- 9. There is documentation that the student has been provided with PT services since October 6, 2023.
- 10. There is documentation that the student has been provided with OT services since September 20, 2023.
- 11. There is documentation that on March 12, 2024, the student was provided with specialized instruction.

CONCLUSIONS:

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

Timely Transition Meeting

Transition planning meetings must be held no fewer than 90 days and not more than nine months before the child's third birthday (COMAR 13a.13.01.09).

Based on the Finding of Fact #3, the BCITP did not ensure that the IFSP transition meeting was held within the required timeframe before the student's third birthday, in accordance with COMAR 13a.13.01.09.

Annual Review of IFSP

A meeting must be conducted at least annually to evaluate and revise, as appropriate, the IFSP for a child and the child's family (34 CFR §303.342) and to conduct a periodic review of an IFSP for a child and the child's family shall be conducted every six months, or more frequently if conditions warrant. (COMAR 13a.13.01.07).

Based on the Finding of Fact #1, #4, and #6, the BCITP did not ensure that the IFSP annual review occurred at least once a year, and a periodic review was conducted every six months since February 2023, in accordance with 34 CFR §300.342 and COMAR 13a.13.01.07.

ALLEGATION 1: PROVISION OF RECOMMENDED SERVICES

Provision of Family Counseling/Training, PT Services, and OT Services

Based on the Findings of Fact #1, #6, and #8 to #10, the BCITP has ensured that the student has been consistently provided family counseling/training, PT services, and OT services as required by the IFSP, since

October 2023, in accordance with 34 CFR §§303.342 and .344. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

Provision of Special Instruction

Based on the Findings of Fact #6 and #11, the BCITP has ensured that the student has been consistently provided with Special Instruction, as required by the IFSP, since March 12, 2024, in accordance with 34 CFR §§303.342 and .344. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

ALLEGATION #2 ASSIGNED A SERVICE COORDINATOR

Based on the Findings of Fact #1 and #6, the BCITP has ensured that the student has been assigned a service coordinator as required by the IFSP, since October 2023, in accordance with 34 CFR §303.344. Therefore, this office finds that a violation did not occur concerning this allegation.

ALLEGATION #3 PROVISION OF COMPLETED IFSP

Based on the Findings of Fact #7, the BCITP provided the parent with a completed copy of the student's IFSP since October 2023, in accordance with 34 CFR §§303.400 and .409. Therefore, this office finds that a violation did not occur concerning this allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include 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. 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. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action. Ms. Barmat can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

Student Specific

MSDE requires that the BCITP IFSP team provide documentation by July 1, 2024, that it has convened and determined the amount and nature of compensatory services or other remedies to redress the violations related to the lack of a timely transition meeting and an annual review of the IFSP. In addition, MSDE requires the BCITP to develop a plan for the provision of those services within a year of the date of this Letter of Findings.

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

Similarly Situated Students

MSDE requires that the BCITP review 25 randomly selected student records by July 1, 2024, to determine whether there is a pattern of delays in convening transition meetings and conducting review meetings pursuant to State and federal requirements. The monitoring report must be provided to MSDE on or before July 10, 2024. Full compliance is required. If the results of the monitoring do not reflect full compliance, 25 additional records must be reviewed by September 2, 2024, with the results reported to MSDE by September 16, 2024. If full compliance is not reported, an additional 25 randomly selected records will be monitored for one more cycle ending in December 2024. If full compliance is not achieved, MSDE and BCITP will determine the next steps in terms of monitoring and accountability.

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/sd

c: Daphne Hicks, Director of Administration, BCITP
Molly Conner, Branch Chief, Performance Support and Technical Assistance, MSDE
Marny Helfrich, Early Childhood Performance Specialist, MSDE
Alison Barmat, Branch Chief, Family support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Sarah Denney, Complaint Investigator, MSDE