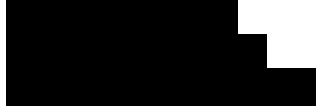


May 9, 2024




Denise Parker-Shields
Baltimore City Infants & Toddlers Program
Interim Director of Early Intervention Services
3002 Druid Park Drive
Baltimore Maryland 21215

RE: 
Reference: #24-165

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), 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 March 11, 2024, MSDE received a complaint from Ms. , hereafter, “the complainant,” on behalf of her grandson. In that correspondence, the complainant alleged that the Baltimore City Infants 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 allegation that the BCITP has not ensured that the student has been consistently provided with the occupational therapy services required by the Individualized Family Service Plan (IFSP) since August 2023, in accordance with 34 CFR § 303.340.

BACKGROUND:

The student is three years old and is identified as a student with Developmental Delay under the IDEA. He is receiving in-home services from the BCITP and has an Individualized Family Service Plan (IFSP) that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On August 9, 2023, the IFSP team convened to conduct the child’s initial eligibility and develop the IFSP. The Prior Written Notice (PWN) from that meeting reflects that the speech and language and occupational therapists were in attendance, and the IFSP team determined that the child was eligible for the services “due to a 25% delay in cognition, communication, and fine motor.” The IFSP team recommended that the child receive 12 sessions of occupational therapy, speech-language therapy, and special instruction. The complainant requested that these services be provided in the home.

2. The IFSP developed on August 9, 2023, reflects the service coordinator information, a six-month IFSP review date of February 9, 2024, and an annual review date of August 9, 2024. The IFSP further reflects that transition planning meetings should occur between November 24, 2023, and May 24, 2024.

The summary of early intervention services for the student required:

- One 45-minute session of Family Counseling/Training, monthly, to begin on August 9, 2023;
- 12 thirty-minute sessions of occupational therapy to begin on September 7, 2023;
- 12 thirty-minute sessions of special instruction to begin on September 7, 2023; and
- 12 thirty-minute sessions of speech/language therapy to begin on September 7, 2023.

The IFSP does reflect the duration for the occupational therapy, special instruction, or speech/language therapy services.

3. While there is documentation that the student received occupational therapy services on September 21, 2023, and September 28, 2023, it was not provided as required by the IFSP.
4. There is documentation that since November 13, 2023, the complainant communicated with the occupational therapist about her dissatisfaction with services. The student's occupational therapy services were discontinued on November 27, 2023.
5. There is documentation that on March 11, 2024, the supervisor of service coordination for BCITP emailed the Baltimore City Public Schools requesting that the occupational therapy services be discontinued.
6. On April 4, 2024, the supervisor of service coordination for BCITP emailed the complainant stating that she had located an occupational therapist who could see the child and expressed that if the complainant was in agreement with the newly identified occupational therapist, she would put in a request for occupational therapy services to begin.
7. While there is documentation that the student received six speech and language sessions and five special education sessions, it was not provided as required by the IFSP.
8. There is no documentation that the IFSP team conducted a six-month IFSP review by February 9, 2024.

DISCUSSIONS AND CONCLUSIONS:

Based on the Findings of Fact #1 to #6, MSDE finds that the BCITP has not ensured that the student has been consistently provided with the occupational therapy services required by the IFSP since August 2023, in accordance with 34 CFR § 303.340. Therefore, this office finds that a violation occurred concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

CONTENT OF AN IFSP

The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified including the length, duration, frequency, intensity, and method of delivering the early intervention services (34 CFR § 303.344). In this case, the IFSP does not reflect the duration of the early intervention services for the child.

Based on the Finding of Fact #2, MSDE finds that the BCITP has not ensured that the IFSP includes the duration of the early intervention services since August 2023, in accordance with 34 CFR § 303.344. Therefore, this office finds that a violation occurred.

PROVISION OF IFSP SERVICES

Based on the Findings of Fact #1, #2, and #7, MSDE finds that the BCITP has not ensured that the student has been consistently provided with speech and language and special instruction services required by the IFSP since August 2023, in accordance with 34 CFR § 303.340. Therefore, this office finds that a violation occurred.

FAILURE TO CONDUCT A PERIODIC REVIEW OF THE IFSP

The public agency is required to review the child's IFSP with the child's family every six months, more frequently if conditions warrant, or if the family requests such a review (34 CFR §303.342). In this case, there is no documentation that a six-month review was conducted by February 9, 2024.

Based on the Finding of Fact #8, MSDE finds that the BCITP has not ensured that the IFSP has conducted a six-month IFSP periodic review since August 2023, in accordance with 34 CFR § 303.342. Therefore, this office finds that a violation occurred concerning the 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. 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

¹ 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.

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 Branch, MSDE, to ensure the effective implementation of the action. Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

Student-Specific

By August 30, 2024, MSDE requires the BCITP to provide documentation of that it has provided the child with the occupational therapy, speech and language and special instruction services as required by the IFSP; and convened an IFSP team meeting to review and revise the child's IFSP as necessary in addition to determining the amount and nature of compensatory services or other remedy to redress the failure to provide occupational therapy, speech and language and special instruction services. The team must 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.

School-Based:

MSDE requires the BCITP to provide documentation of the steps it has taken to ensure that its staff and related service providers properly implement the requirements for developing an appropriate IFSP, conducting six-month IFSP reviews, and the provision of services as required by the IFSP. The steps must include staff development, as well as tools developed to monitor compliance. Monitoring must include a review of at least 25 randomly selected records of children who receive services through an IFSP to review the development of the IFSP and the provision of required services. The first monitoring report must be submitted to MSDE on or before October 1, 2024. Full compliance is required for all components of the monitoring sample. If 100% compliance is not achieved, a second sample of 25 randomly selected students must be submitted on or before December 2, 2024. If full compliance is not achieved, BCITP staff will confer with MSDE on subsequent monitoring activities.

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.

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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/ebh

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