

May 23, 2024

[REDACTED]

Denise Mabry
Director of Special Education
Baltimore City Public Schools
200 E. North Avenue
Baltimore, Maryland 21202

RE: [REDACTED]
Reference: #24-180

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 25, 2024, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her granddaughter, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public Schools (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 ensure proper procedures were followed when determining the student’s educational placement since March 1, 2024, in accordance with 34 CFR §300.116.

BACKGROUND:

The student is three years old and is a student with a Developmental Delay (DD). She attends [REDACTED] School and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On February 1, 2024, the IEP team convened to determine initial eligibility for Part B, a review of assessments, discussion of the transition from Part C to Part B services, and development of an IEP. The Prior Written Notice (PWN) generated after the meeting reflects the IEP team proposed and agreed to the following:

- the student requires special education services as a student with a developmental delay;
- to all services being provided using an inclusion model;
- specialized instruction will be provided for five hours weekly;
- 20 minutes of occupational therapy weekly;
- 20 minutes of physical therapy weekly;
- 30 minutes of speech weekly; and
- transportation services.

The PWN also reflects the family waived their ten-day meeting notice and elected to develop the IEP on February 1, 2024, at the same time eligibility for Part B services was determined. The IEP reflects that “the team discussed [the student] receiving her Part B services at home, a service provider location, and a preschool program for peers with and without IEPs.” The IEP team determined that the student would receive services in an inclusion program with non-disabled peers.

2. On March 3, 2024, the complainant emailed BCPS staff informing them that the student’s parent was unavailable/unresponsive. The complainant informed BCPS that in the absence of the parent, she signed the documents. The initial IEP was signed on March 3, 2024.
3. On March 13, 2024, the BCPS staff provided the complainant with a copy of the finalized IEP.
4. On April 3, 2024, the placement letter was mailed to the parent at the address of record. There is documentation that an email was sent to the principal of the receiving school requesting assistance for the family with the enrollment process.

DISCUSSION and CONCLUSION:

The complainant alleges that the IEP team failed to identify an appropriate placement by offering the student a part-time pre-kindergarten program to receive a Free and Appropriate Public Education (FAPE). In Maryland, there is no entitlement to universal full-day public pre-kindergarten. The local school system is required to provide FAPE and may choose a full-day pre-kindergarten program if available. In this case, the IEP team discussed the student’s needs and determined that FAPE could be provided in the part-time pre-kindergarten program. *Dear Colleague Letter*, 69 IDELR 106 (OSEP 2017).

Based on the Findings of Fact #1 through #4, MSDE finds that the BCPS did ensure proper procedures were followed when determining the student’s placement educational placement since March 1, 2024. Therefore, MSDE finds that a violation did not occur concerning this allegation.

TIMELINES:

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

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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/ra

c: Dr. Sonja Santelises, Superintendent, BCPS
Christa McGonigal, Educational Specialist II, BCPS
[REDACTED], Principal, [REDACTED] School, BCPS
Alison Barmat, Branch Chief, Family support and Due Process, MSDE
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