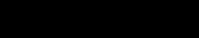


June 25, 2024




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

RE:   
Reference: #24-211

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 May 2, 2024, the MSDE received a complaint from , hereafter, “the complainant,” on behalf of the above-referenced student. 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 special education instruction 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. The student 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 May 9, 2024, MSDE issued a Letter of Findings<sup>1</sup> that addressed the issue that the student had not been consistently provided with the special education instruction required by the Individualized Family Service Plan (IFSP) since August 2023, in accordance with 34 CFR § 303.340 and found the BCITP to be in violation of the IDEA.
2. The Corrective Actions and Timelines for this violation stated “By August 30, 2024, MSDE requires the BCITP to provide documentation 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. 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.”
3. There is documentation that the BCITP continues to not ensure that the student is consistently provided with the special education instruction, since May 9, 2024, as required by the IFSP.

**CONCLUSION:**

As a part of a previous State investigation (24-165), MSDE investigated whether the student received the special education instruction required by his IFSP, in addition to other services. MSDE issued a Letter of Findings on May 9, 2024, ordering corrective actions as a result of violations found in that investigation. Based on the findings of this investigation, MSDE finds that BCITP has continued to not ensure that the student is consistently provided with the special education instruction required by the IFSP since May 9, 2024, in accordance with 34 CFR § 303.340. Therefore, a continuing violation is occurring.

**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.

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<sup>1</sup> MSDE Letter of Findings for State Complaint #24-165.

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 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 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](mailto:alison.barmat@maryland.gov).

**Student-Specific:**

As required by the May 9, 2024, Letter of Findings, the BCITP must provide documentation that it has provided the child with the occupational therapy, speech-language, and special instruction services as required by the IFSP; convened an IFSP team meeting to review and revise the child's IFSP as necessary; and determined 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 by August 30, 2024. 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.

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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.

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. The 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  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Elizabeth B. Hendricks, Complaint Investigator, MSDE