


July 19, 2024




Ms. Kristen Mentges
Director of Special Education
Talbot County Public Schools
12 Magnolia Street
Easton, Maryland, 21601

RE: 
Reference: #24-219

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 May 7, 2024, MSDE received a complaint from , hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Talbot County Public Schools (TCPS) 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 TCPS did not ensure that proper procedures were followed when responding to a request for an IEP team meeting from August 1, 2023, to October 4, 2023, in accordance with 34 CFR §300.503.
2. The TCPS did not ensure that the parent was provided the prior written notice (PWN) of the IEP team’s decisions from the IEP team meetings held on February 21, 2024, and March 22, 2024, in accordance with 34 CFR §300.503.
3. The TCPS did not ensure that a copy of the IEP document was provided within five (5) business days after the IEP team meetings held from October 4, 2023, to March 22, 2024, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.

BACKGROUND:

The student is 17 years old and is a student with Multiple Disabilities (MD) under the IDEA. He attends   and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The IEP in effect in July 2023, was developed on October 7, 2022. The IEP reflects a re-evaluation due date of October 13, 2023.
2. Beginning in July 2023 and through March 2024, the Department of Human Services (DHS) placed the student in a private residential treatment facility (PRTF) for reasons that are unclear from available documentation. This PRTF has separate residential and private alternative education day school components. This placement was made outside of the IEP process and without input from the TCPS.
3. On August 1, 2023, the complainant emailed the TCPS, the PRTF, and the DHS requesting an IEP team meeting to discuss a report from a private provider.
4. On August 3, 2023, an IEP team meeting notice was developed by the TCPS proposing to convene an IEP team meeting on August 15, 2023. The meeting notice reflects the purpose of the meeting was to discuss placement.
5. On August 15, 2023, the IEP team convened. The PWN generated following this IEP team meeting reflects: “[student] was transferred to a private school¹ in Baltimore (he was admitted July 27, 2023) for an inpatient program for 6-9 months, where he will receive the services that he needs. The plan is for him to return home to TCPS and stay geared toward TCPS’ graduation requirements. [TCPS staff] will be [PRTF’s] point of contact at [REDACTED].”
6. On August 15, 2023, following the IEP team meeting the complainant emailed TCPS, the PRTF, and the DHS requesting an IEP team meeting.
7. On September 7, 2023, an IEP team meeting occurred for the purpose of reviewing the private assessment completed on July 19, 2023, in order to update the student’s eligibility. Meeting participants included the residential therapist, the special education coordinator, a TCPS school psychologist, the TCPS director of special education, the parent, general education teacher, and special education teacher.
8. On October 25, 2023, the IEP team met to hold the student’s annual review and eligibility determination meeting. Meeting participants included the special education coordinator, parent, special education teacher, transition coordinator, and the TCPS director of special education. There is no documentation that the complainant was provided with the student’s IEP within five business days after the meeting.
9. On November 7, 2023, and November 26, 2023, the complainant emailed staff at the PRTF and a TCPS central office staff member sharing that she had questions and concerns about the IEP developed on October 25, 2023. On November 27, 2024, the draft IEP was reshared with the parent.

¹ “Private school” refers to the PRTF in Baltimore City, where the student was placed by DHS in July 2023.

10. On December 27, 2023, the complainant informed the staff at the PRTF and a TCPS central office staff member, that she is unable to see the corrections in the IEP shared on November 27, 2023. On January 2, 2024, the TCPS central office staff member responded to the complainant sharing that TCPS is available to meet with the PRTF to address the complainant's concerns.
11. On January 23, 2024, the PRTF's principal informed TCPS central office staff that the student's IEP will be updated.
12. On February 1, 2024, the PRTF principal informed the TCPS central office staff that:
 - the parent would like a transition meeting;
 - the IEP was not finalized; and
 - requested a meeting in February 2024, to ensure updates are completed.
13. On February 1, 2024, a meeting notice was developed by TCPS proposing an IEP team meeting on February 21, 2024. The meeting notice reflects that the purpose of the meeting is to review and revise the IEP.
14. On February 21, 2024, TCPS facilitated an IEP team meeting. Meeting participants included the parent and the PRTF principal. There is no documentation that the finalized IEP document and the PWN were provided to the complainant.
15. On March 1, 2024, the student returned to TCPS.
16. There is no documentation to support that an IEP team meeting was convened in March 2024.

DISCUSSION AND CONCLUSIONS:

The education of students placed by the State or a court in an out-of-county living arrangements is governed by Md. Code, Education § 4-122. Under the law, the county in which the parent or guardian of the child resides is the financially responsible county. The "service providing local education agency" is the local education agency for the county where a child in an out-of-county living arrangement is placed. In this case, the student's parent resides in Talbot County and the student was enrolled in TCPS until placement at the PTRF by DHS. While the PRTF is located in another jurisdiction, TCPS never disputed its obligation to provide a free appropriate public education (FAPE) to the student and continued to participate in the student's educational programming. As such, for the purposes of this case, MSDE finds that TCPS is the public agency responsible for providing the student with FAPE and complying with relevant federal and State special education law.

ALLEGATION #1

RESPONSE TO A REQUEST FOR AN IEP TEAM MEETING

Based on Findings of Fact #3 - #7 and #12 - #14, MSDE finds that the TCPS did ensure that proper procedures were followed when responding to a request for an IEP team meeting from August 1, 2023, to October 4, 2023, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur concerning this allegation.

ALLEGATION #2

PROVISION OF PWN

February 21, 2024

Based on the Finding of Fact #14, MSDE finds that the TCPS did not ensure that the parent was provided with the PWN of the IEP team's decisions from the IEP team meeting held on February 21, 2024, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

March 22, 2024

Based on the Finding of Fact #16, MSDE finds that an IEP team meeting was not convened on March 22, 2024, to trigger the requirement of the TCPS to ensure that the parent was provided with the PWN of the IEP team's decisions, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

ALLEGATION #3

PROVISION OF COMPLETED IEP DOCUMENTS

Based on the Findings of Fact #8 and #14, MSDE finds that the TCPS did not ensure that a copy of the IEP document was provided within five business days after the IEP team meetings held from October 25, 2023, to February 21, 2024, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning this allegation.

CORRECTIVE ACTION AND 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.^[2] 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. Nicole Green, Branch Chief, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.^[3] Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

² The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct 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.

³ MSDE will notify the Public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

Student-Based

MSDE requires the TCPS to provide documentation by September 3, 2024, that the IEP team has:

- a. Provided the complainant with the PWN developed on February 21, 2024.
- b. Provided the complainant with a copy of the IEP; and
- c. Determined if the violations identified in this Letter of Finding had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

The TCPS 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.

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/ra

- c: Dr. Kelly L. Griffith, Superintendent, TCPS
[REDACTED], Principal, [REDACTED], TCPS
[REDACTED] Executive Director, [REDACTED] e
Alison Barmat, Chief, Family Support and Dispute Resolution Branch, MSDE
Tracy Givens, Section Chief, MSDE
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Nicole Green, Compliance Specialist, MSDE
Rabiatu Akinlolu, Compliance Investigator, MSDE