

August 2, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Allison Myers
Executive Director, Department of Special Education
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #24-258

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 June 5, 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 County Public Schools (BCPS) 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 BCPS has not followed proper procedures in the identification and evaluation of the student since January 2024, in accordance with 34 CFR §§ 300.111 and .301-.311.
2. The BCPS did not ensure that informed parental consent was obtained prior to conducting a speech-language assessment for the student on April 25, 2024, in accordance with 34 CFR § 300.300.
3. The BCPS did not ensure that the parent was provided with written notice of the June 4, 2024, IEP team meeting at least 10 days in advance of the meeting, in accordance with COMAR 13A.05.01.07.
4. The BCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the June 4, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
5. The BCPS has not followed proper procedures when responding to a request for an IEP team meeting since January 2024, in accordance with 34 CFR §§ 300.503.

BACKGROUND:

The student is five years old and is identified as a student with Speech-Language Impairment (SLI) under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On January 25, 2024, the Student Support Team (SST) convened to discuss the student's speech articulation based on a referral from the student's teacher. The SST summary form reflects that member of the school-based team reviewed the student's performance in class and shared their articulation concerns. The summary form reflects that the parent shared that she discussed her concerns about attention deficit hyperactivity disorder (ADHD) with the student's pediatrician, and it was recommended that an ADHD diagnosis should not be considered until the student is older. It was reported that the student appears to have a short attention span and has difficulty sitting still. The summary form reflects the team's decision to share the student's articulation concerns with the Speech-Language Pathologist (SLP), and an informal speech assessment would be conducted.
2. On April 2, 2024, the IEP team convened to discuss the student's "educational performance and potential need for special education services." The Prior Written Notice (PWN) generated after the meeting reflects that the team agreed to conduct a formal articulation assessment for the student and to obtain more information to determine if the student qualified for special education services.
3. On April 25, 2024, a "Speech and Language Assessment" report was completed for the student. The assessment report reflects that the parent's signature for consent for assessment was obtained on April 2, 2024. The assessment report reflects that although the student scored within the "low average" range for articulation skills, his speech intelligibility was "greatly affected by phonological process errors." The report states that the student "demonstrates the characteristics of a mild articulation impairment."
4. On May 17, 2024, a "Parent Notification of IEP Team Meeting" was generated for June 4, 2024, to discuss the results of the assessment report. There is documentation the notification was provided to the parent.
5. On May 31, 2024, a "Notice of Documents" was generated for the June 4, 2024, IEP team meeting which included the speech-language assessment.
6. On June 3, 2024, the student's teacher sent a text to the student's aunt sharing that the student's IEP meeting was scheduled for the next day, June 4, 2024. The text message reflected that the "Notice of Documents" and accompanying paperwork was going to be sent home with the student that day (June 3, 2024) due to the student's absence from school on May 31, 2024.
7. On June 3, 2024, the student's teacher received a text message from the student's aunt stating that the meeting notification was "short notice" and did not allow the parent time to request leave from work.
8. On June 4, 2024, the student's aunt sent the advocate an email that she received from the parent that showed pictures of the results from the student's speech-language assessment and the invitation to the June 4, 2024, IEP meeting. The email from the aunt stated that the parent received the documents "in [the student's] bookbag yesterday" (June 3, 2024). The email stated that "one of the papers stated they tested him back in April, but they never told her they tested him." Additionally, the email stated that the

meeting notice stated it had been sent in May, but the parent never received any paperwork. The email stated that the parent was called about the meeting on June 3, 2024, but she told the team that she had to reschedule to request time off.

9. The parent notification of the IEP team meeting reflects that the parent requested a delay of the meeting on June 3, 2024.
10. On June 4, 2024, a draft IEP was developed for the student that reflected the student's primary disability as "speech-language impairments" with speech-language articulation as the areas affected by the disability.
11. On June 13, 2024, school-based BCPS staff emailed the parent to reschedule the review assessment meeting for the student that was originally scheduled for June 4, 2024. The email stated if the parent did not respond by June 17, 2024, the IEP team would schedule the review meeting for June 26, 2024, and the meeting to develop the initial IEP on July 2, 2024.
12. On June 17, 2024, the BCPS school-based staff member emailed the parent stating that a phone call had been attempted regarding the student's upcoming IEP meeting, but a message could not be left due to the mailbox being full.
13. On June 25, 2024, school-based BCPS staff emailed a "3rd Parent Notification of IEP Team Meeting" notice to the parent. The email reflected that per the parent's request, the IEP team meeting that was scheduled for June 26, 2024, could be rescheduled for either July 2, 2024, July 3, 2024, or July 8, 2024. The email stated, "This is the third attempt to reschedule a meeting to review the assessment that was requested at the initial IEP meeting on April 2, 2024. (1st attempt- 6/4/2024, 2nd attempt 6/26/2024)."
14. On July 1, 2024, school-based BCPS staff emailed a "Parent Notification of IEP Team Meeting" notice to the parent. The email included the meeting notification, the notice of documents, and the speech-language evaluation. The email stated "per your discussion with [the school secretary] on Friday, June 28, 2024, we will proceed with a review assessment meeting for [the student] on July 9, 2024..."
15. On July 9, 2024, the IEP team reconvened for a virtual meeting to discuss the assessment results and determine if the student was eligible for special education services. The PWN generated after the meeting reflects the team determined the student qualified for special education services.

The PWN reflects the assessment results were reviewed by an SLP other than the one who administered the assessment because the testing SLP was a contractor and was no longer working for BCPS.

The PWN reflects that the team recommended services for the student under the SLI eligibility, developed the eligibility determination form, obtained verbal consent from the parent, and sent the consent signature form home.

The PWN reflects that the school-based team reported concerns about the student's attention and shared that he is on grade level academically and is able to "access grade-level standards with the supports his teacher was providing." The team discussed supplementary aids and services that could be provided to support the student's attention concerns and determined that the student did not require specialized instruction at this time but would monitor how the student responded to the supports provided.

The PWN reflects the team determined that it would reconvene on July 26, 2024, to develop the initial IEP.

16. On July 9, 2024, a "Parent Notification of IEP Team Meeting" was sent to the parent. Follow-up notes on the notice reflect that the "[t]eam date of 7/26/24 was chosen during the 7/9/24 meeting."
17. There is no documentation that the parent provided signed consent on April 2, 2024, for the student to receive a speech-language assessment on April 25, 2024.
18. There is no documentation that an IEP has been developed and finalized for the student.
19. There is no documentation that the parent requested an IEP meeting.

DISCUSSION AND CONCLUSIONS:

ALLEGATION #1 EVALUATION PROCEDURES

The initial evaluation for special education services must be conducted within 60 days of receiving parental consent for the evaluation. (34 CFR § 300.301). If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 300.320 through 300.324. (34 CFR § 300.306). Each public agency must ensure that a meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and as soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. (34 CFR § 300.323).

In this case, if parental consent was obtained on April 2, 2024, and the assessment was completed on April 25, 2024, the meeting to review the assessment should have been held by June 1, 2024, and the IEP developed by July 1, 2024. However, the assessment review meeting did not occur until July 9, 2024, and the IEP has not been developed for the student.

Based on the Findings of Fact #2, #10, #11, #13, #15, #16, and #18, MSDE finds that the BCPS has not followed proper procedures in the identification and evaluation of the student since January 2024, in accordance with 34 CFR §§ 300.111 and .301-.311. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #2 PARENTAL CONSENT FOR EVALUATION

The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability must obtain informed consent from the parent of the child before conducting the evaluation. (34 CFR §§ 300.300).

Based on the Findings of Fact #2, #3, and #17, MSDE finds that the BCPS did not ensure that informed parental consent was obtained prior to conducting a speech-language assessment for the student on April 25, 2024, in accordance with 34 CFR § 300.300. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 IEP MEETING NOTICE

The parent of a student with a disability shall be provided with written notice in advance of the meeting. Reasonable notice shall be at least 10 days in advance of the meeting. (COMAR 13A.05.01.07).

In this case, the generated IEP meeting notice reflects that it was sent to the parent on May 17, 2024, however, text messages between the teacher and the parent reflect that the parent was not informed of the meeting until June 3, 2024.

Based on the Findings of Fact #4, #6, #7, and #8, MSDE finds that the BCPS did not ensure that the parent was provided with written notice of the June 4, 2024, IEP team meeting at least 10 days in advance of the meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #4 PROVISION OF IEP DOCUMENT PRIOR TO THE MEETING

Based on the Findings of Fact #6, #7, and #8, MSDE finds that the BCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the June 4, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #5 PARENT RESPONSE TO IEP MEETING

Based on the Findings of Fact #1 and #19, MSDE finds that the parent did not request an IEP meeting in January 2024, therefore the BCPS was not required to follow proper procedures when responding to a request for an IEP team meeting since January 2024, in accordance with 34 CFR §§ 300.503. Therefore, this office finds that no violation occurred concerning the allegation.

CORRECTIVE ACTIONS 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. 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 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, Ms. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action. Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

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.

Student-Specific

MSDE requires the BCPS to provide documentation by October 30, 2024, that the IEP team has:

- Convened an IEP team meeting and determined if the failure to timely develop the student's IEP review, failure to obtain parental consent for testing, failure to provide timely notice of an IEP meeting and accessible copies of documents to be reviewed at the meeting had a negative impact on the student's ability to benefit the educational 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.

School-Based

MSDE requires the BCPS to provide documentation by October 30, 2024, of the steps it has taken to ensure that the staff at [REDACTED] properly implements and documents the requirements under IDEA and COMAR identified in this Letter of Finding related to Child Find, parental notice and assessment. These steps must include staff development, as well as tools developed to monitor compliance.

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 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/ebh

c: Dr. Myriam Rogers, Superintendent, BCPS
Charlene Harris, Supervisor of Compliance in the Department of Special Education, BCPS
Jason Miller, Coordinator, Special Education Compliance, BCPS
[REDACTED], Principal, [REDACTED], BCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE