



Mohammed Choudhury
State Superintendent of Schools

September 1, 2023

[REDACTED]

Ms. Allison Myers
Executive Director
Special Education Services
Baltimore County Public Schools
105 W Chesapeake Ave,
Towson, Maryland 21204

RE: [REDACTED]
Reference: # 24-001

Dear Parties:

Maryland State Department of Education (MSDE), Division of Early Intervention 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.

ALLEGATIONS:

On July 3, 2023, MSDE received a complaint from Mr. [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. BCPS did not follow proper procedures when responding to requests to access the student's educational records since June 2023, in accordance with 34 CFR §300.613.
2. BCPS did not ensure that the Behavior Intervention Plan (BIP) was consistently implemented since the beginning of the 2022-2023 school year, in accordance with 34 CFR § 300.101 and 323.
3. BCPS did not follow proper procedures when the Individualized Education Program (IEP) team determined the placement in which the student would receive special education instruction, since the beginning of the 2022-2023 school year, in accordance with 34 CFR §300.114 and .116.
4. BCPS did not ensure that the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving her IEP goals, during the 2022-2023 school year, in accordance with 34 CFR §300.101 and 324.
5. BCPS did not ensure that the complainant was provided with a report of the student's progress toward achieving the annual IEP goals during the 2022-2023 school year, in accordance with 34 CFR §300.101 and .323.

BACKGROUND:

The student is nine years old and attended [REDACTED] School. She is identified as a student with autism under the IDEA and has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1 and #5: ACCESS TO THE STUDENT'S RECORD AND PROVISION OF PROGRESS REPORTS

FINDINGS OF FACTS:

1. On February 2, 2023, the BCPS appointed [REDACTED] as the surrogate parent for the student.
2. The student's IEPs in effect during the time period of the investigation require that the student's parents¹ be provided with progress reports on a quarterly basis.
3. There is no documentation that the complainant received IEP progress reports from February 2, 2023, through the end of the 2022-2023 school year.
4. On June 20, 2023, and June 27, 2023, the complainant requested access to the student's educational records to include academic, behavior, attendance, documentation of the days that the student was sent home due to behaviors, and related services data.
5. On June 28, 2023, the BCPS responded to the request for access and included copies of the student's Functional Behavioral Assessment, Behavior Intervention Plan, and attendance data. The BCPS clarified that the student "was not sent home for behavior, but that she was picked up from school by the group home following visits to the health suite related to self-injury." The BCPS also informed the complainant that additional data requested from the speech language pathologist and teacher would be forthcoming.
6. On July 18, 2023, the complaint received some additional data that was requested from the BCPS.
7. On August 8, 2023, the IEP team met to review and revise, as appropriate, the student's IEP. The prior written notice generated following that meeting reflects that the complainant was provided with "requested educational records and a copy of the student's progress reports for the 2022-2023 school year."

DISCUSSION/CONCLUSIONS

Allegation #1:

Access to the Student's Educational Records

The public agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. The agency must comply with a request without

¹ Parent" does not include an employee of a public agency responsible for the education or care of the child; or The State, if the child is a ward of the State. In this case the documents reflect that the "Social Worker" was erroneously recognized as the parent prior to February 2, 2023.

unnecessary delay and before any meeting regarding an IEP, or any hearing or resolution session pursuant and in no case more than 45 days after the request has been made (34 CFR §300.613).

Based on the Finding of Facts #1 and #4 through #6, MSDE finds that the BCPS provided the complainant with access to the student's education record since June 20, 2023, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation did not occur with respect to this allegation.

Allegation #5: Provision of Progress Reports

Based on the Finding of Facts #1 and #3 MSDE finds that the BCPS did not ensure that the complainant was provided with a report of the student's progress toward achieving the annual IEP goals during the 2022-2023 school year, in accordance with 34 CFR §300.101 and .323 Therefore, this office finds that a violation occurred with respect to this allegation.

Notwithstanding, based on the Finding of Fact #6, MSDE finds that on August 8, 2023, BCPS provided the complaint with a report of the student's progress toward achieving the 2022-2023 annual IEP goals, and confirmed receipt of the requested records. Therefore, no student-specific corrective action is necessary to address this violation.

ALLEGATIONS #2, #3, AND #4: IMPLEMENTATION OF THE STUDENT'S BEHAVIOR PLAN, DETERMINATION OF THE STUDENT'S PLACEMENT, AND ADDRESSING THE LACK OF EXPECTED PROGRESS

An IEP team meeting occurred on August 8, 2023. BCPS has proposed the following remedies with respect to allegations #2 through #4:

FINDINGS OF FACTS:

7. In its response to the allegations, the BCPS acknowledged that violations occurred with respect to allegations #2, #3, and #4. During an IEP team meeting convened for the student, the BCPS proposed compensatory services of sixtyfive hours to address these violations.

DISCUSSION/CONCLUSIONS:

Based on the Finding of Facts #7, MSDE finds that the BCPS has acknowledged that violations have occurred with respect to allegations #2, #3, and #4 and that the IEP team has determined the compensatory services necessary to remediate the violations with respect to this student. Therefore, no further student-specific corrective action is necessary.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include those for 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.

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MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner. 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. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action. Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

MSDE requires the BCPS to provide documentation by November 1, 2023, of the steps taken to ensure that the violations regarding the determination of the placement, implementation of behavior intervention plans, and addressing the lack of expected progress do not reoccur at [REDACTED] School. Steps must include the provision of professional development for staff, monitoring tools reflecting the provision of behavioral supports for students, and a review of other students' IEPs who transferred into the school to determine if the student's IEPs reflect the placement decisions of the IEP team, and proper steps to take if they do not.

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,

Dr. Deann Collins
Deputy Superintendent
Division of Early Intervention/Special Education Services

DMC:ra

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