




Mohammed Choudhury  
State Superintendent of Schools

September 8, 2023




Denise T. Mabry  
Director of Compliance & Due Process  
Baltimore City Public Schools  
200 E. North Avenue, Room 204 B  
Baltimore, Maryland 21202

RE:   
Reference: #24-011

Dear Parties:


The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), 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 July 14, 2023, the MSDE received a complaint from Ms. , “the complainant<sup>1</sup>,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public School (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 has not ensure that the parent was afforded an opportunity to attend and participate in Individualized Education Program (IEP) team meetings since July 14, 2022, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D(2).

**BACKGROUND:**

The student is 10 years old and is identified as a student with an Emotional Disability under the IDEA. The student attends  School. She has an IEP that requires the provision of special education instruction and related services.

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<sup>1</sup> While the student is placed in foster care, the complainant is the student’s biological mother and retains her parental rights under the IDEA.

### **FINDINGS OF FACTS:**

1. The student's IEP, in effect at the start of the 2022- 2023 school year, was developed on May 26, 2022, with a projected annual review date of May 25, 2023.
2. The "Notice of Individualized Education Program Team Meeting" sent on April 14, 2023, for an IEP team meeting to be held on May 23, 2023, included the required IEP participants, including the complainant. However, there is no documentation that the invitation was sent to the complainant.
3. On May 23, 2023, the IEP team met to complete the annual review for the student.
4. On May 23, 2023, a school staff member attempted to call the complainant prior to the start of the meeting but "could not connect" with the contact information on file.
5. There is documentation that the student's foster parent attended the meeting and served as the role of the "Parent/Guardian" on the IEP team.
6. On July 28, 2023, a member of the IEP team spoke with the complainant and apologized for the "oversight" and proposed having another meeting to update the complainant on what took place previously. The complainant was provided with a copy of the Prior Written Notice and the IEP.
7. An IEP meeting is scheduled for September 13, 2023, to review and revise the IEP as appropriate, hear parent concerns, and to discuss the changes made to the IEP during the May 23, 2023, IEP meeting.

### **DISCUSSION/ CONCLUSION**

The BCPS is required to take steps to ensure a parent <sup>2</sup>of a student with a disability is present or is afforded the opportunity to attend and participate in IEP team meetings, including notifying the parent of the meeting early enough to ensure that the parent will have an opportunity to attend and scheduling the meeting at a mutually convenient time and place. If the parent cannot attend an IEP team meeting, the BCPS must use other methods to ensure participation, including individual or conference telephone calls. (34 CFR §300.322).

To ensure parent participation, the BCPS must provide the parent with written notice at least ten days in advance of the meeting. The notice must state the purpose, time, date, and location of the meeting, and who will be in attendance. It must also state that the parent may invite other individuals to attend the meeting whom the parent deems to have knowledge or special expertise regarding the student's needs (COMAR 13A.05.01.07).

Based on Findings of Fact #1 through #7, MSDE finds that the BCPS did not ensure that the parent was afforded an opportunity to attend and participate in IEP team meetings since July 14, 2022, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D(2). Therefore, this office finds that a violation occurred.

Notwithstanding the violation, based on Findings of Fact #7, an IEP meeting is scheduled for September 13, 2023, to review and revise the IEP as appropriate, hear parent concerns, and discuss the

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<sup>2</sup> In this case, because the student's biological parent retained legal authority to make educational decisions for the student, she was the presumed parent under the IDEA. (34 CFR § 300.30).

changes made to the IEP during the May 23, 2023, IEP meeting. Therefore, no further student-specific corrective action is required with respect to this aspect of the violation.

**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.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>3</sup> 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.<sup>4</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

MSDE requires the BCPS to provide documentation by November 30, 2023 of the steps it has taken to ensure that [REDACTED] School staff properly implements the requirements for inviting the required team members to each IEP meeting. The documentation must include a description of how the [REDACTED] will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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

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<sup>3</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.

<sup>4</sup> MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

[REDACTED]  
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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 M. Collins  
Deputy Superintendent  
Office of the Deputy Superintendent of Teaching and Learning

DC/sj

c: Sonja Santelises  
Christa McGonigal  
[REDACTED]  
Paige Bradford  
Nicol Elliott  
Alison Barmat  
Gerald Loiacono  
Diane Eisenstadt  
Stephanie James