



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

November 13, 2019

██████████  
3215 Peverly Run Road  
Abingdon, Maryland 21009

Mr. Michael Thatcher  
Director of Special Education  
Harford County Public Schools  
102 South Hickory Avenue  
Bel Air, Maryland 21014

RE: ██████████  
Reference: #20-051

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.

**ALLEGATION:**

On November 1, 2019, the MSDE received a complaint from Mr. ██████████ hereafter, “the complainant,” on behalf of his son, the above-referenced student. In that correspondence, the complainant alleged that the Harford County Public Schools (HCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related State requirements with respect to the student.

The MSDE investigated the allegation that the HCPS did not provide written notice of an October 21, 2019 Individualized Education Program (IEP) team meeting at least ten (10) days in advance of the meeting to ensure parental participation in the meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.

**BACKGROUND:**

The student is twelve (12) years old and attends ██████████ Middle School. He is identified as a student with Multiple Disabilities under the IDEA, including a Specific Learning Disability and Other Health Impairment, and has an IEP that requires the provision of special education and related services.

**FINDINGS OF FACTS:**

1. On October 4, 2019, the IEP team, including the complainant, met and reviewed the IEP at the complainant's request. There is documentation that, at that meeting, the complainant requested that a service being provided to the student be discontinued. The IEP team decided that additional data would be collected and that it would reconvene to consider the request based on the data. The team documented that "a mutually agreed upon date and time was established for this meeting."
2. On October 21, 2019, the IEP team, including the complainant, reconvened and considered the complainant's request. The team documented that, at the start of the meeting, the complainant reported that he did not receive a written invitation to the IEP team meeting at least ten (10) days prior to the meeting. The team further documented that the school system staff offered to reschedule the meeting in order to give the notice within the required timeline, and the complainant indicated that he wished to proceed with the meeting on that day.
3. The student's educational record contains documentation that the school staff have provided the complainant written notice of other IEP team meetings ten (10) days prior to those meetings.

**DISCUSSION/CONCLUSIONS:**

In this case, the complainant acknowledges that he was involved in the scheduling of the IEP team meeting and had the opportunity to participate. Nevertheless, he wants the HCPS to be found in violation of the requirements of the IDEA as a matter of principle and wants the school system to "pay for an outside consultant to train all special education personnel on how to properly complete an IEP meeting notice."

The Code of Federal Regulations (CFR) implementing the IDEA does not require written notice of an IEP team meeting at least ten (10) days prior to the meeting. The federal regulations require that each public agency take steps to ensure that one (1) or both of the parents are afforded the opportunity to participate in IEP team meetings. The federal regulations reflect that this means notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend the meeting, and scheduling the meeting at a mutually agreed on time and place (34 CFR §300.322).

The United States Department of Education, Office of Special Education Programs (OSEP), in interpreting the federal regulations, has indicated that, consistent with other requirements of the IDEA that are not regulated by specific timelines, a standard of reasonableness should be applied in determining in each case whether notice is timely (*Letter to Constantian*, 17 IDELR 118 (OSEP 1990)).

The State of Maryland has chosen to set a timeline of ten (10) days' notice in writing of an IEP team meeting unless an expedited meeting is needed. In order to further facilitate parent participation in the IEP team meeting, the State requires that documents to be considered by the IEP team be provided to a parent at least five (5) business days before the meeting (COMAR 13A.05.01.07). This is known as "the five (5) day rule."

When "the five (5) day rule" went into effect in 2012, the MSDE issued guidance to the local public agencies on the implementation of the requirement. In that guidance, this office indicated that if, during an IEP team meeting, a document not previously provided to the parent is to be reviewed, the parties should work together in the student's best interest to determine how to proceed. This guidance stated that "as long as all parties are in agreement there is flexibility in the law to make the process more efficient, and amenable to each child's needs." It further stated that the public agency should "offer the parent the opportunity to continue the meeting, reconvene the meeting, or any other appropriate option agreeable to both parties" (*MSDE Technical Assistance Bulletin #20, Child with a Disability – Individualized Education Program Meeting – Document Access*, September 2012).

Based on the above Findings of Facts, the MSDE finds that, while the HCPS did not meet the timeline set forth in COMAR 13A.05.01.07, the HCPS took reasonable steps to ensure the complainant's participation in the IEP team meeting, consistent with the intent of the IDEA and the MSDE guidance.

Based on those Findings of Facts, the MSDE further finds that there is no evidence of the need for training of the school system staff or other corrective action to ensure that the violation does not recur.

The office trusts that both parties understand that IEP team meetings are to be student-centered, and the student's best interest is to be paramount in the education decision-making process. Therefore, moving forward, this office encourages the parties to continue to work cooperatively, as they did in this case, to schedule IEP team meetings at a mutually agreeable date and time.

**TIMELINE:**

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.

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,

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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,

Marcella E. Franczkowski, M.S.  
Assistant State Superintendent  
Division of Early Intervention  
and Special Education Services

MEF/am

c: Sean Bulson  
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