



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

April 15, 2020




Dr. Debra Brooks  
Executive Director of Special Education  
Baltimore City Public Schools  
200 East North Avenue, Room 204-B  
Baltimore, Maryland 21202

RE:   
Reference: #20-107

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.

**ALLEGATIONS:**

On March 6, 2020, the MSDE received a complaint from  hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

The MSDE investigated the following allegations:

1. The BCPS did not provide written notice of a February 5, 2020 Individualized Education Program (IEP) team meeting at least ten (10) days in advance of the meeting to ensure the opportunity for parent participation, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
2. The BCPS did not provide Prior Written Notice (PWN) of the IEP team's decisions following the February 5, 2020 IEP team meeting, in accordance with 34 CFR §300.503.

3. The BCPS did not provide an accessible copy of the IEP within five (5) business days of IEP team meeting held on February 5, 2020, in accordance with COMAR 13A.05.01.07.

### **BACKGROUND:**

The student is fifteen (15) years old, is identified as a student with an Intellectual Disability under the IDEA, and has an IEP that requires the provision of special education instruction and related services.

The student is assigned to [REDACTED]. The documentation reflects that the student has not attended school during the 2019-2020 school year and that action is being taken to enforce compulsory school attendance.

### **FINDINGS OF FACTS:**

1. The parent contact log documents that, on November 26, 2019, the school staff contacted the complainant by telephone to schedule an IEP team meeting to discuss the student's lack of school attendance during the 2019-2020 school year, and left a voicemail message.
2. The parent contact log documents that, on January 3, 2020, the school staff sent the complainant an electronic mail (email) message forwarding an invitation to an IEP team meeting on January 15, 2020 to be held at [REDACTED] High School, and also placed the meeting invitation in the mail.
3. The parent contact log and email correspondence documents that, on January 3, 2020, the complainant sent a reply email to the school staff stating that it was her belief that holding the meeting at [REDACTED] was a "fraudulent attempt to make it appear" that the IEP can be implemented at that school. The complainant's email states "this IEP meeting is highly inappropriate as you don't have the capability of meeting my son's needs," and that "this will be addressed at the hearing next week."<sup>1</sup>
4. The parent contact log and email correspondence documents that, on January 14, 2020, the school staff sent the complainant an email explaining the importance of conducting the IEP team meeting to discuss returning the student to school because the student was not being provided with a Free Appropriate Public Education (FAPE) as long as the complainant kept him from attending school. In that email, the school staff offered two (2) additional dates for the IEP team meeting, including January 28, 2020 and February 4, 2020, and stated that the meeting would be held on February 4, 2020 if they did not hear back from the complainant. The log and email correspondence also

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<sup>1</sup> This is a reference to a Court hearing that was scheduled as a result of the BCPS' action to enforce compulsory school attendance.

documents that the school staff attempted to contact the complainant by telephone and left a voice mail message with the same information.

5. The parent contact log and email correspondence documents that, on January 14, 2020, the complainant responded by email expressing her belief that the school system was holding the meeting to attempt to “falsify data/documents so that BCPS can ‘comply’ with federal and state regulations.”
6. The parent contact log documents that, on January 15, 2020, the school staff mailed a written notice of an IEP team meeting to the complainant.
7. The BCPS did not hold the IEP team meeting on February 4, 2020, but attempted to hold the meeting on February 5, 2020 instead. The documentation created by the school staff reflects that they believed they had given the complainant the date of February 5, 2020 for the meeting instead of February 4, 2020. The documentation states that the team was unable to make decisions regarding the IEP because of the student’s lack of school attendance. This document was hand delivered to the complainant on March 4, 2020 at Court where the parties were present to participate in the ongoing legal action to enforce compulsory school attendance.
8. On March 4, 2020, the Court action to enforce compulsory school attendance was postponed in order to give the parties the opportunity to attempt to resolve the matter through the IEP team process.

#### **DISCUSSION/CONCLUSIONS:**

##### **Allegation #1 Notice and Opportunity to Participate in the IEP Team Meeting**

The public agency is required to take steps to ensure that the student’s parents are afforded the opportunity to participate in each IEP team meeting. This includes providing written notice of the date, time, and location of the meeting, as well as the purpose of the meeting and who will participate in the meeting, at least ten (10) days prior to the meeting (34 CFR §300.322 and COMAR 13A.05.01.07).

Based on the Findings of Facts #1 - #7, the MSDE finds that, due to school staff error, the complainant was provided with the wrong date for an IEP team meeting that was scheduled for February 5, 2020, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding the violation, based on the Findings of Facts #7 and #8, the MSDE further finds that the IEP team meeting did not take place on February 5, 2020, as scheduled. Therefore, this office finds that the violation did not impact the complainant’s ability to participate in the education decision-making process.

**Allegation #2                      Prior Written Notice (PWN)**

Written notice must be provided to parents within a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of students or the provision of a FAPE to students. This notice must include information about the decisions made, the basis for the decisions, the data used when making the decisions, and the options considered by the team (34 CFR §300.503). The purpose of providing PWN is to ensure that parents have sufficient information in order to determine whether they wish to exercise their right to access the dispute resolution procedures if they disagree with the IEP team's decisions. Based on the Findings of Facts #1 - #8, the MSDE finds that the BCPS did not propose or refuse to initiate or change the identification, evaluation, or educational placement or the provision of a FAPE to the student, and thus there was no requirement to provide PWN, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to this allegation.

**Allegation #3                      Provision of IEP**

The public agency must ensure that parents are provided with a copy of the IEP within five (5) business days of the date of an IEP team meeting. If the IEP has not been finalized, a draft IEP must be provided (COMAR 13A.05.01.07).

Based on the Findings of Facts #1 - #8, this office finds that the BCPS did not conduct the review of the IEP that was scheduled for February 5, 2020, and thus was not obligated to provide a copy of the IEP after February 5, 2020, in accordance COMAR 13A.05.01.07. Therefore, this office does not find that a violation occurred with respect to this allegation.

**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 FAPE for the student, including issues subject to this State complaint investigation, consistent with the IDEA.



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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/Special Education Services

MEF:aam

c: Sonja B. Santelises  
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