




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

August 17, 2020
REISSUED AUGUST 18, 2020¹




Dr. Kathrine Pierandozza
Executive Director of Special Education
Baltimore County Public Schools
The Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: 
Reference: #20-142

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 June 25, 2020, the MSDE received a complaint from Ms.  hereafter “the complainant,” on behalf of her son, 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 student.

The MSDE investigated the allegation that the BCPS has not ensured that an IDEA evaluation was completed and a Free Appropriate Public Education (FAPE) offered to the student during the 2019-2020 school year, in accordance with 34 CFR §§300.101 and .111 and COMAR 13A.05.01.04 - .06.

BACKGROUND:

The student is thirteen (13) years old and **he** is provided home instruction by the complainant. The student’s residence school would be the 

¹This document is being reissued to correct a typographical error on page one.

FINDINGS OF FACTS:

1. On July 31, 2019, the complainant requested an IDEA evaluation, indicating the following areas of concern: below grade level in the areas of reading and math, speech articulation, low tone and coordination, possible dyslexia and possible Tourette's syndrome.
2. On October 18, 2019, an IEP team meeting was held. The Individualized Education Plan (IEP) team considered information that the student was being provided with private occupational therapy (OT), speech/language services and mental health services. Based on this information, the IEP team decided to conduct an evaluation, and that the student would be observed by the relevant providers at the school in order to obtain information for the IEP team to determine whether additional assessments were needed.
3. The complainant later provided copies of previous independent assessments to assist the team in determining whether the student was eligible for special education services.
4. On February 21, 2020, the IEP team considered the results of previous observations by the school's related service providers and summary reports provided by the complainant from independent providers. The team decided that, without assessment reports from the
 - a. independent providers, the team did not have adequate information to determine eligibility and would need to conduct their own BCPS formal assessments including: OT, educational, psychological, and speech and language.
5. The BCPS assessments have not been conducted due the closure of school buildings as a result of the COVID-19 pandemic.

CONCLUSION:

Based on Findings of Facts #1 - #5, the MSDE finds that the BCPS has not completed the IDEA evaluation in accordance with 34 CFR §§300.101 and .111 and COMAR 13A.05.01.04 - .06, therefore, a violation occurred with respect to the allegation.

CORRECTIVE ACTION/TIMEFRAME:

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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.²

² The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency must correct 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, the 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.

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This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³

Dr. Birenbaum can be reached at (410) 767-7770.

The MSDE requires the BCPS to provide documentation that assessments have been conducted on an expedited basis once they can be safely conducted, and that the IEP team has considered the data and completed the IDEA evaluation. If the student meets the criteria for identification as a student with a disability under the IDEA, the BCPS must ensure that an IEP is developed on an expedited basis and that the IEP team determines the compensatory services or other remedy for the delay in the provision of a FAPE.

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 timeframes 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 FAPE for the student, including issues subject to this State complaint investigation, 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/dee

c: Darryl Williams Dori Wilson
 Daniel Martz Anita Mandis
 Charlene Harris Diane Eisenstadt
 [REDACTED] Nancy Birenbaum

³ The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.