




Mohammed Choudhury
State Superintendent of Schools

November 15, 2021




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

RE: 
Reference: #22-041

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.

ALLEGATIONS:

On October 12, 2021, 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 City Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the student.

The MSDE investigated the following allegations:

1. The BCPS has not ensured that the student was provided with the supports and services required by the Individualized Education Program (IEP) since July 27, 2021, in accordance with 34 CFR §§300.101 and .323.
2. The BCPS did not ensure that the complainant was provided, at least five (5) business days before, with accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meeting on October 5, 2021,¹ in accordance with COMAR 13A.05.01.07.

¹ During the course of this investigation, it was determined that the IEP team meeting identified as being held on October 1, 2021 had been rescheduled from October 1, 2021 to October 5, 2021.

3. The BCPS has not followed proper procedures when developing the IEP, since October 12, 2020, in accordance with 34 CFR §§300.320 and .324. Specifically, it is alleged that the IEP does not contain a statement of annual goals in the areas of reading, writing and math, that are designed to meet the student's needs that result from his disability to enable him to be involved in and make progress in the general education curriculum.
4. The BCPS did not ensure that a reevaluation occurred at least every three (3) years, since October 12, 2020, in accordance with 34 CFR §300.303.

BACKGROUND:

The student is nineteen (19) years old and is identified as a student with Autism under the IDEA. He has an IEP that requires the provision of special education services.

The student attended [REDACTED] until October 5, 2021, at which time he was placed by the BCPS at the [REDACTED] a public separate day school.

ALLEGATION #1: IEP IMPLEMENTATION SINCE JULY 27, 2021

FINDINGS OF FACTS:

1. Attendance records reflect that the student was enrolled in, but did not attend, Extended School Year (ESY) services in July-August of 2021.
2. The Accommodations, Supplementary Aids and Services checklist reflects that the student was provided with the supports and services required by the IEP from August 30, 2021 to October 20, 2021, at which time the student began attending a public separate day school.
3. A Receipt of IEP and Initiation of Service form reflects that the student's teachers initiated the student's IEP services on October 19, 2021 at the public separate day school.
4. Progress reports dated November 4, 2021 reflect that the student is receiving special education instruction and related speech services since his enrollment at the public separate day school.

CONCLUSION:

Based on Findings of Facts #1 - #4, the MSDE finds that the student was provided with the supports and services required by the IEP since July 27, 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #2: PROVISION OF DOCUMENTS AT LEAST FIVE (5) DAYS PRIOR TO THE IEP TEAM MEETING ON OCTOBER 5, 2021

5. The parent contact log reflects that copies of assessments administered to the student during a reevaluation were delivered “face to face” to the complainant on September 13, 2021 for a meeting originally scheduled for September 27, 2021, which was subsequently rescheduled several times and took place on October 5, 2021.
6. The parent contact log and the email from school staff to the complainant, dated September 17, 2021, reflect that the draft IEP and progress reports were delivered to the complainant “face to face” on September 17, 2021 for a meeting originally scheduled for September 27, 2021, which was subsequently rescheduled and took place on October 5, 2021. The complainant acknowledged receipt of the hand delivered documents by email to school staff on September 24, 2021.
7. The parent contact log reflects that on September 30, 2021, school staff resent, by email, copies of the assessments administered to the student to be discussed at the IEP team meeting, which took place on October 5, 2021.

CONCLUSION:

Based on the Findings of Facts #5 - #7, the MSDE finds that the BCPS ensured that the complainant was provided, at least five (5) business days before, with accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meeting on October 5, 2021, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #3: READING, WRITING AND MATH GOALS NOT DESIGNED TO ENABLE PROGRESS

FINDINGS OF FACTS:

8. The IEP in effect at the beginning of the investigation period reflects that the student is participating in alternative curriculum and assessments.
9. The IEP in effect at the beginning of the investigation period identifies student needs in the areas of functional reading, math calculation, math problem solving, reading comprehension, written language expression and written language mechanics. The IEP in effect at the beginning of the investigation period contains a goal for every area of need.
10. The student’s present level of performance in the area of reading comprehension reflects that the student is working to identify and sequence the letters of his first and last name. While the goal in this area is measurable and aligned to alternate achievement standards, the required benchmarks and/or short term objectives do not meet the student’s needs that result from his disability, based on his present level of performance.
11. The student’s present level of performance in the area of math calculation reflects that the student is “working on identifying different coin denominations.” While the goal in this

- area is measurable and aligned to alternate achievement standards, the required benchmarks and/or short term objectives do not meet the student's needs that result from his disability, based on his present level of performance.
12. The student's present level of performance in the area of math problem solving reflects that the student does not understand the concept of addition and subtraction and could count from one to ten with support. While the goal in this area is measurable and aligned to alternate achievement standards, the required benchmarks and/or short term objectives do not meet the student's needs that result from his disability, based on his present level of performance.
 13. The student's present level of performance in the area of written language mechanics reflects that the student is able to identify and to trace his first and last name with a modified worksheet or model and with full support. While the goal in this area is measurable and aligned to alternate achievement standards, the required benchmarks and/or short term objectives do not meet the student's needs that result from his disability, based on his present level of performance.
 14. The student's present level of performance in the area of written language expression reflects that the student is unable to write his name or provide a missing letter of the given words. While the goal in this area is measurable and aligned to alternate achievement standards, the required benchmarks and/or short term objectives do not meet the student's needs that result from his disability, based on his present level of performance.
 15. The student's present level of performance in the area of functional reading reflects that the student cannot read words or identify letters of the alphabet. While the goal in this area is measurable and aligned to alternate achievement standards, the required benchmarks and/or short term objectives do not meet the student's needs that result from his disability, based on his present level of performance.
 16. On October 5, 2021, the IEP team convened for the student's reevaluation and the student's goals and objectives were revised. The IEP contains a measurable goal and objectives for each area of identified need, and the goals and objectives enable the student to be involved in and make progress through the general education curriculum.

CONCLUSION:

Based on the Findings of Facts #8 - #16, the MSDE finds that the BCPS has not followed proper procedures when developing the IEP, from October 2020 to October 5, 2021, in accordance with 34 CFR §§300.320 and .324. Therefore, this office finds that a violation has occurred with respect to this allegation during that time period.

**ALLEGATION #4: THREE YEAR REEVALUATION SINCE
OCTOBER 12, 2021**

FINDINGS OF FACTS:

17. The IEP dated November 27, 2019 reflects that a reevaluation took place. The IEP team

reviewed an educational assessment and other existing documentation to determine continued eligibility as a student with a disability under the IDEA.

18. On October 5, 2021, the IEP team convened to conduct a reevaluation at which time the IEP team reviewed assessments in the following areas: Adaptive Physical Education (PE), Speech/Language, Intellectual/Cognitive Functioning, and Academics.

CONCLUSION:

Based on the Findings of Facts #17 and #18, the MSDE finds that the BCPS ensured that a reevaluation occurred at least every three (3) years, since October 12, 2020, in accordance with 34 CFR §300.303. Therefore, this office does not find that a violation occurred with respect to the allegation.

CORRECTIVE ACTION/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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.² 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 or by email at nancy.birenbaum@maryland.gov.

Student Specific

The MSDE requires the BCPS to provide documentation that the IEP team has convened and determined whether the violation had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services to redress the violations and develop a plan for the provision of those services.

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.

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

School-Based

The MSDE requires the BCPS to provide documentation of the steps taken to ensure that proper procedures are followed at the [REDACTED] when developing annual goals and objectives for students accessing alternate curriculum, which meet the students' needs that result from their disability, to enable them to make progress in the general education curriculum. The documentation must include a description of the action that will be taken to monitor the effectiveness of the steps taken.

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 Free Appropriate Public Education (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: Sonja Santelises
[REDACTED]
Denise Mabry
Christa McGonigal
Nancy Birenbaum
Brian Morrison
Diane Eisenstadt