




Mohammed Choudhury
State Superintendent of Schools

November 17, 2021




Dr. Debra Y. Brooks
Executive Director of Special Education
Baltimore City Public Schools
200 E. North Avenue, Room 204 B
Baltimore, MD 21202

RE: 
Reference: #22-043

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 October 12, 2021, the MSDE received a complaint from Ms.  hereafter, “the complainant,” on behalf of her daughter, 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 allegation that the BCPS has not provided the student with adult support as required by the Individualized Education Program (IEP) since October 5, 2021, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is six (6) years old and is identified as a student with an Other Health Impairment (OHI) under the IDEA, related to Down Syndrome. She attends  and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021-2022 school year was developed on June 2, 2021. The IEP requires that the student be provided with additional adult support across all school settings to ensure the student's safety. The adult support should be present with her throughout the school day to assist her in staying on task and redirecting her to activities/assignments as needed.
2. The BCPS acknowledges that a violation occurred with respect to the allegation. Specifically, the BCPS acknowledges that the student was not provided adult support from October 5, 2021 to October 13, 2021.
3. On October 25, 2021, the IEP team convened to discuss the parent's concerns about the provision of adult support since October 5, 2021. The school staff reported that an individual had been recently hired and was expected to begin providing support to the student on October 25, 2021. However, there is no documentation that the student has been provided with adult support since October 5, 2021.

CONCLUSION:

Based upon the Findings of Fact #1- #3, the MSDE finds that the BCPS did not ensure that the student was provided with adult support as required by the IEP since October 5, 2021, in accordance with 34 CFR §§300.101 and .323. Therefore this office finds that a violation occurred with respect to the allegation.

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

The MSDE has established reasonable time frames below to ensure that non-compliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with the MSDE Special Education State Complaint Resolution Procedures.

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency 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.

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 Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² 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 student is being provided with the adult support service required by the IEP.

The MSDE requires the BCPS to provide documentation that the IEP team has convened and determined whether the violation related to the lack of provision of adult support 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 or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The BCPS must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

The MSDE requires BCPS to provide documentation of the steps taken to ensure that the violation does not recur at [REDACTED]

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

² The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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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/Special Education Services

MEF/tg

c: Sonja Santelises
Christa McGonigal
■
Brian Morrison
Tracy Givens
Nancy Birenbaum