




Mohammed Choudhury
State Superintendent of Schools

April 8, 2022




Dr. Kathy Pierandozzi
Executive Director, Department of Special Education
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: 
Reference: #22-098

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 February 24, 2022, the MSDE received a complaint from Mr.  hereafter, “the complainant,” on behalf of his daughter, 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 above-referenced student.

The MSDE investigated the allegation that the BCPS has not ensured that the student has been provided with the speech or language services required by the Individualized Education Program (IEP) since the start of the 2021 - 2022 school year, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is four (4) years old and is identified as a student with a Developmental Delay under the IDEA. She attends  and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The IEP in effect at the start of the 2021 - 2022 school year requires that the student be provided with speech or language services, thirty (30) minutes each week, outside of the general education classroom. The IEP also requires that the student be provided with speech or language services, fifteen (15) minutes each month, inside the general education classroom.
2. The BCPS acknowledges that a violation occurred with respect to the allegation. Specifically, the BCPS acknowledged that “due to a national shortage of speech or language pathologist”, there has been a vacancy under this position at the [REDACTED]. Therefore, the student has not been provided with speech or language services required by the IEP since the start of the 2021 - 2022 school year.
3. The emails dated March 14, 2022 through March 21, 2022, between BCPS staff reflect that the BCPS have taken steps to fill the vacant speech or language pathology position.

CONCLUSION:

Based on the Findings of Facts #1 - #3, the MSDE concurs with the BCPS conclusion that a violation occurred and appreciates the school system’s response to the investigation.

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 noncompliance 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

The MSDE requires the BCPS to provide documentation by May 31, 2022 that the student is being provided with the speech or language services required by the IEP. If by this date a speech or language pathologist has not been hired to service the school, the MSDE requires the BCPS to provide documentation each month thereafter demonstrating the efforts made to hire a speech or language pathologist for the school.

Upon the hiring of a speech and language pathologist, the MSDE requires the BCPS to provide documentation that the IEP team has convened to determine the student's present levels of functioning and performance in speech or language, determined the amount and nature of compensatory services to redress the violation, and developed a plan for the provision of those services within one year of the date of this Letter of Findings.

The BCPS must ensure that the IEP team considers the difference between the student's present and expected levels of performance when determining the services needed to remediate the violation.

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 the BCPS to provide documentation by the start of the 2022 - 2023 school year that it has identified all students with disabilities under IDEA at [REDACTED] who required the provision of speech or language services. For those students identified, the BCPS must ensure that an IEP team convenes and determines the student's present levels of functioning and performance in speech or language, the amount and nature of compensatory services to be provided to the student for the loss of services, and develops a plan for the provision of those services within one (1) year of the date of this Letter of Findings. If a student matriculates to another school or transfers to another school system prior to the completion of the provision of the remedy, the BCPS must coordinate with the public agency responsible for the education of the student in order to ensure that the remedy is provided.

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.

³ On April 8, 2022, the MSDE issued a Letter of Findings reporting the results of an investigation of State complaint #22-101 which this office found that a violation occurred, and school-based corrective action is required.

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Dr. Kathy Pierandozzi

April 8, 2022

Page 4

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 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:ac

c: Darryl Williams
Conya Bailey
Jason Miller
Charlene Harris
■
Brian Morrison
Gerald Loiacono
Albert Chichester
Diane Eisenstadt