



June 15, 2022

Ms. Martha Goodman
Coordinator
Maryland Special Needs Advocacy Project
5708 Park Heights Avenue
Baltimore, Maryland 21215

Rachel Goodman, Esquire
Attorney on Behalf of Private School Officials
Maryland Special Needs Advocacy Project
5708 Park Heights Avenue
Baltimore, Maryland 21215

Dr. Debra Brooks
Executive Director of Special Education
Baltimore City Public Schools
200 E. North Avenue
Baltimore, Maryland 21202

RE: Equitable Services for Parentally Placed
Private School Students
Reference: #22-108

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), has completed the investigation of the complaint regarding special education services for the above-referenced students. This correspondence is the report of the final results of the investigation.

ALLEGATIONS:

On March 14, 2022, the MSDE received a complaint from Rachel Goodman, Esquire, hereafter, “the complainant,” on behalf of Parentally Placed Private School Students. 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 students.

The MSDE investigated the allegation that the BCPS has not ensured that timely and meaningful consultation has been conducted with private school representatives during the design and development of special education and related services for children with disabilities who are parentally- placed in private schools since March 14, 2021¹, in accordance with 34 CFR §§300.132-.136.

¹ Your complaint was received on March 14, 2022. The MSDE has authority to investigate complaint allegations of violations that occurred not more than one (1) year from the date the complaint is received in our office (34 CFR §300.153). Accordingly, this Letter of Findings will address allegations from March 14, 2021, through the date of this letter.

FINDINGS OF FACTS:

1. On March 12, 2021, the BCPS convened a consultation meeting with representatives from Baltimore City area private school representatives to make determinations regarding the 2021-2022 school year.
2. The BCPS scheduled an annual consultation meeting with representatives from Baltimore City area private schools for May 17, 2022. The consultation meeting was to “include a discussion of the Child Find process, the proportionate amount of funds available for services, the consultation process, the services to be provided the parentally placed students (including what will happen if there are insufficient funds to provide services to all students), and a written explanation of the school system’s decisions.”
3. Invitations to the May 17, 2022 Consultation meeting, mailed to representatives from private schools, were dated April 19, 2022. A reminder email was sent to representatives on May 6, 2022.
4. The annual consultation to discuss services for students parentally placed in private and religious schools for the 2022 - 2023 school year was convened on May 17, 2022.
5. The BCPS presentation to representatives and parents of students parentally placed in private and religious schools addressed Child Find Activities, the evaluation process, IEP processes, service plans, equitable participation, the services that BCPS offers under the Memorandum of Understanding between BCPS and private/religious schools through Service Plans, how the proportionate share is calculated, the total amount of funding available for services (including a discussion of the lack of carryover from FY 2021).
6. Participants at the May 17, 2022, consultation meeting were given the opportunity to provide their written affirmation that they participated meaningfully in the process for the 2022 - 2023 school year.
7. Documentation reflects that participants at the May 17, 2022, consultation meeting were in agreement with the services offered by the BCPS for parentally placed students for the 2022-2023 school year.

DISCUSSION/CONCLUSIONS:

Allegation #1

Students parentally placed in private schools are entitled to an equitable, or proportionate share of federal funding for eligible students with disabilities, in accordance with 34 CFR§300.133. Implementing regulations to the IDEA require that school systems consult with representatives of private schools to determine the services to be provided to private school students as part this expenditure. While there are no federal requirements regarding the frequency of this consultation, COMAR regulations state that the consultation must take place annually and on a “timely” basis, in accordance with 34 CFR §300.134 and COMAR 13A.05.01.16(b)(2).

The annual Consultation meeting must include a discussion of the Child Find process, the proportionate amount of funds available for services, the consultation process, the services to be provided the parentally placed students (including what will happen if there are insufficient funds to provide services to all students), and a written explanation of the school system’s decisions, in accordance with 34 CFR §300.134 and COMAR 13A.05.01.16(b)(2). If the LEA has not spent the allocated amount in a year, they are “obligated” to roll it into the next year to spend on services for parentally placed students in private schools for a carry over period of one (1) additional year, in accordance with 34 CFR§300.133(a)(ii)(3).

Ms. Martha Goodman
Rachel Goodman, Esquire
Dr. Debra Brooks
June 15, 2022
Page 3

Based on the Findings of Facts #1-4, the BCPS has scheduled, and convened, the annual Consultation meeting with private school representatives and representatives of parents of parentally placed private school students, in accordance with 34 CFR §§300.132-.136.

Further, Based on Findings of Facts #5-6, the BCPS discussed the required elements, including the proportionate share of funds available to provide services for students parentally placed in private schools, how the amount was determined and what amount is available for services, including the fact that there is no carry over funding from the 2020-2021 school year and that the BCPS offered the opportunity for participants to provide a written affirmation of the meaningful consultation process and there were no disagreements about the services offered, in accordance with 34 CFR §§300.132-.136 Therefore, this office does not find that a violation occurred.

TIMELINES:

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:gl

c: Sonja Santelises
Denise Mabry
Christa McGonigal
Alison Barmat
Gerald Loiacono