



Mohammed Choudhury
State Superintendent of Schools

June 21, 2022

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

RE: [REDACTED]
Reference: #22-137

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 student. This correspondence is the report of the final results of the investigation.

ALLEGATION:

On April 22, 2022, the MSDE received a complaint from Ms. Alyssa Thorn hereafter, “the complainant,” on behalf of 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 adult support since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323.

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BACKGROUND:

The student is five years old and attends [REDACTED] School. He is identified as a student with Autism under the IDEA and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student's IEP, at the start of the 2021-2022 school year, was developed on June 21, 2021. The IEP requires that the student be provided with "close adult supervision due to his tendency to elope, climbing window sills, counters, attempt to escape spaces, run, and not respond to safety commands/his name/inhibitory commands" and that:

"One to one support is necessary for [the student]. The adult needs to assist [the student] during his academic lessons or task. In addition, his support staff will reinforce and encourage communication (verbal and nonverbal) while utilizing his visuals/devices. The support staff will also support [the student] with his self-help skills (bath rooming). He requires support during all aspects of his day."

2. While there is documentation that the student was provided with assistance from school staff on some days during the 2021-2022 school year, there is no documentation that the support has been consistently provided to the student throughout the school day.

DISCUSSION/CONCLUSIONS:

Based on Findings of Facts #1 and #2, the MSDE finds that there is no documentation that the student was consistently provided with adult support as required by his IEP, since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to this 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.

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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.

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.

The MSDE requires the BCPS to provide documentation by October 1, 2022, that the IEP team has taken the following actions:

- a. Ensured that the student is being provided with the adult support required by the IEP;
- b. Determined compensatory services needed to remediate the violation identified in this investigation; and
- c. Developed a plan for the implementation of the compensatory services to be completed within one (1) year of the date of this Letter of Findings.

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

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.

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.

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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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: Darryl L. Williams
Conya Bailey
Jason Miller
Charlene Harris
[REDACTED]
Alison Barmat
Diane Eisenstadt
Gerald Loiacono