



July 13, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Dr. Joan Dabrowski
Chief Academic Officer
Baltimore City Public Schools
200 E. North Avenue, Room 204 B
Baltimore, MD 21202

RE: [REDACTED]
Reference: #22-159

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 May 18, 2022, the MSDE received a complaint from Ms. [REDACTED] hereafter, “the complainant,” on behalf of 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 followed proper procedures when identifying and evaluating to determine if the student is a student with a disability requiring special education services, under the IDEA, since February 2022, in accordance with 34 CFR §§300.300 - .306, and COMAR 13A.05.01.06.

BACKGROUND:

The student is seven (7) years old and attends [REDACTED] School. He was referred for evaluations under the IDEA.

FINDING OF FACT:

1. The BCPS acknowledges that a violation occurred with respect to the allegation. Specifically, the BCPS acknowledged that “the referral was made by the parent and school principal on February 23, 2022, and the IEP team did not make a determination regarding eligibility until June 2, 2022.”

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CONCLUSION:

Based upon the Findings of Fact #1, 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 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.

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 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 September 1, 2022, that the IEP team has convened to develop the student's IEP and determine whether the delay to evaluate 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 parents are 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.

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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School-Based

The MSDE requires the BCPS to provide documentation by October 1, 2022, of the steps it has taken to ensure that the ██████████ School staff properly implements the requirements for identifying and evaluating students under the IDEA. The documentation must include a description of how the BCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur. The BCPS must provide monitoring reports to the MSDE on Dec 1, 2022, March 1, 2023, and June 1, 2023 reflecting compliance with requirements for evaluation and identification pursuant to the IDEA and COMAR.

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/tg

c: Sonja Santelises
Christa McGonigal
██████████
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Tracy Givens