



Mohammed Choudhury  
State Superintendent of Schools

August 5, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]

Ms. Allison Myers  
Executive Director  
Department of Special Education  
Jefferson Building, 4<sup>th</sup> Floor  
105 W Chesapeake Avenue  
Towson, Maryland 21204

RE: [REDACTED]  
Reference: #22-180

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.

**ALLEGATIONS:**

On June 7, 2022, the MSDE received a complaint from Ms. [REDACTED] hereafter, “the complainant,” on behalf of her son, 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 following allegations:

1. The BCPS has not ensured that the student has been consistently provided with adult support, as 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.
2. The BCPS did not provide proper written notice of the April 4, 2022, IEP team’s decisions regarding adult support, in accordance with 34 CFR §300.503.

**BACKGROUND:**

The student is fourteen (14) years old and is identified as a student with Multiple Disabilities under the IDEA. He attends the [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The student's IEP developed on November 17, 2021<sup>1</sup>, requires that the student be provided with daily adult support, including an "additional assistant" assigned to work with the student when he requires, "extra assistance with activities of daily living in order to access the instructional program."
2. On April 4, 2022, the IEP team met to review and revise the student's IEP. The IEP team determined that the student continued to require "daily 1:1 adult support throughout his entire school day and across all settings" but that this support could now be provided by "the special educator, instructional assistant, and/or additional adult assistant." There was no rationale provided for this determination in the prior written notice generated following the IEP team meeting.
3. There is no documentation that the student was consistently provided with adult support since the start of the 2021-2022 school year as required by his IEP.

**CONCLUSIONS:**

**Allegation #1:**

**PROVISION OF ADULT SUPPORT**

Based on Findings of Facts #1 - #3, the MSDE finds that the BCPS has not ensured that the student has been consistently provided with adult support, as required by the 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.

**Allegation #2:**

**PROVISION OF PROPER WRITTEN NOTICE**

Based on Finding of Fact #2, the MSDE finds that the BCPS did not provide proper written notice of the April 4, 2022 IEP team's decisions regarding adult support, in accordance with 34 CFR §300.503. 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).

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<sup>1</sup> On June 22, 2022, July 29, 2022 and August 2, 2022, the MSDE requested documentation from the BCPS related to the student's IEP in effect prior to November 17, 2021. To date, the BCPS has not provided the MSDE with the requested documentation reflecting the requirement for adult support prior to November 17, 2021.

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.<sup>2</sup> 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.<sup>3</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [Diane.Eisenstadt@maryland.gov](mailto:Diane.Eisenstadt@maryland.gov).

### **Student Specific**

The MSDE requires the BCPS to provide documentation by October 1, 2022, of the following actions:

- a. That it has provided the student with adult support as required by the IEP;
- b. That it has convened an IEP team meeting to determine whether this violation 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; and
- c. That the IEP team has convened to clarify the determinations made regarding the student's adult support and that the parent has been provided with written notice reflecting the IEP team's decision.

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.

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<sup>2</sup> 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.

<sup>3</sup> 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 taken to ensure that the staff at the [REDACTED] School properly execute the requirements of the IDEA related to IEP implementation and the provision of proper written notice. Please note that any documentation that is submitted relating to a future plan of action must be supplemented with documentation that demonstrates that the plan has been implemented and monitored, prior to the closing of the case.

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: Conya Bailey  
Jason Miller  
Charlene Harris  
Alison Barmat  
Diane Eisenstadt  
Gerald Loiacono  
Tracy Givens