



Mohammed Choudhury
State Superintendent of Schools

December 8, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Allison Myers, Executive Director
Department of Special Education
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #23-061

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 October 11, 2022, the MSDE received a complaint from Mr. [REDACTED] hereafter, “the complainant,” on behalf of his 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 allegation that the BCPS has not ensured that the student was consistently provided with special education instruction, speech and language services, and occupational therapy services as required by the Individualized Education Program (IEP) since the start of the 2022-2023 school year, in accordance with 34 CFR §300.101 and .323.

BACKGROUND:

The student is three (3) years old and is identified as a student with a Developmental Delay under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The student’s IEP, dated August 12, 2022, requires that he receive three (3) hours and forty-five (45) minutes per week of specialized instruction inside of the general education setting, thirty (30)

minutes per week of speech and language services inside of the general education setting, and thirty (30) minutes per week of occupational therapy services.

2. The BCPS has acknowledged that the student was not consistently provided with the occupational therapy and speech and language services required by his IEP since the start of the 2022-2023 school year, due to the unavailability of service providers in these areas.
3. There is documentation that the student has received the occupational therapy services required by his IEP since November 10, 2022, and that the BCPS has developed a plan to provide the student with occupational therapy services missed during the 2022-2023 school year.
4. There is documentation that the student was consistently provided specialized instruction as required by the IEP since the start of the 2022-2023 school year.

CONCLUSIONS:

PROVISION OF OCCUPATIONAL THERAPY SERVICES

Based on the Finding of Facts #1 to #3, the MSDE finds that BCPS did not ensure that the student was consistently provided with occupational therapy services as required by the IEP since the start of the 2022-2023 school year to November 10, 2022, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Notwithstanding that violation, the MSDE further finds, based on Finding of Fact #3, that the BCPS has developed and implemented a plan to provide the missed occupational therapy services to the student. Therefore, no further student-specific corrective action is necessary to address this violation.

PROVISION OF SPEECH AND LANGUAGE SERVICES

Based on the Finding of Facts #1 and #2, the MSDE finds that BCPS did not ensure that the student was consistently provided with speech and language services as required by the IEP since the start of the 2022-2023 school year, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

PROVISION OF SPECIALIZED INSTRUCTION

Based on the Findings of Fact #4, the MSDE finds that the BCPS did ensure that the student was consistently provided with special education instruction as required by the IEP since the start of the 2022-2023 school year, in accordance with 34 CFR §300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this aspect of the 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.

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 January 16, 2023, that the IEP team has convened to discuss any interim options to the provision of the student's speech and language services, update the IEP if appropriate, and determined whether the lack of the provision of speech and language services since the start of the 2022-2023 school year has 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 provide documentation each month thereafter demonstrating efforts made to hire a speech or language pathologist for the school, until such time as a speech pathologist has been hired. 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 and 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 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 March 1, 2023, identifying each student at [REDACTED] School who, since the start of the 2022-2023 school year, did not receive the speech and language or occupational therapy services required by their IEPs. The BCPS must develop compensatory education plans for each student and provide the plans to MSDE by May 31, 2023.

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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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: Darryl Williams
Jason Miller
Charlene Harris
██████████
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Tracy Givens