



December 16, 2022

[REDACTED]
[REDACTED]
[REDACTED]

Dr. 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: #23-068

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 19, 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 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 Individualized Education Program (IEP) team has addressed the parent’s concerns regarding the student’s dietary needs since the start of the 2022-2023, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is four years old and is identified as a student with Autism under the IDEA. He was enrolled in the half-day Preschool program at [REDACTED] School and has an IEP that requires the provision of specialized instruction and related services.

FINDINGS OF FACTS:

1. On September 22, 2022, the IEP team convened to discuss the implementation of the student’s IEP. Documentation prepared following the meeting reflects that the complainant requested that the student’s “food be warmed before consumption based on his inability to tolerate certain food and

that he only eats specific types of foods.” The complainant provided documentation from the student’s doctor to support the request.

2. Documentation from the student's doctor dated September 19, 2022, reflects that due to his “Autism, attention-deficit hyperactivity disorder, mixed receptive-expressive language disorder, and impulse control disorder” it is important to offer the student preferred food options. The student’s diet mostly consists of “macaroni and cheese, chicken, rice etc. all of which required being warmed prior to consumption.” The doctor recommended that the student’s food be warmed “at school rather than at home and sent in thermos.” The doctor expressed concern about the student opening the thermos on the bus and potentially harming himself or others.
3. School-based members of the IEP team explained that the student participates in a half-day program, and that he is fed a snack during the school day. The IEP team noted that at the end of the 2021-2022 school year, the student ate the snacks provided that often included “brownies, onions, fruit and chocolate muffins” and that continue to be available for the 2022-2023 school year. The BCPS members of the IEP team further stated that the school staff does not have access to a microwave, and that BCPS’ policy forbids staff from warming “outside food” in the school kitchen.
4. In response to the parent’s concerns, the IEP team proposed to provide the student a “hot meal” from the school kitchen to eat during the student’s class snack time. The team also proposed that the student could bring food selected by the parent, heated at home, and placed in a thermos that the student would not have access to during transportation. The complainant did not agree to either option and stated, “there is no guarantee [the student] will eat the food from the cafeteria as he only eats specific types of foods.” There is documentation that the IEP team considered, but ultimately rejected the parent’s proposal for the reasons discussed above, and declined to revise the student’s IEP.

CONCLUSION:

Based on the Findings of Facts #1 - #4, the MSDE finds that the BCPS has ensured that the IEP team has addressed the parent’s concerns regarding the student’s dietary needs since the start of the 2022-2023, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to the allegation.

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

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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 and Special Education Services

MEF/tg

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