




Karen B. Salmon, Ph.D.
State Superintendent of Schools

December 17, 2020




Dr. Katherine Pierandozzi
Executive Director, Academic Services
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 W. Chesapeake Avenue
Towson, Maryland 21204

RE: 
Reference: #21-029

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 October 23, 2020, the MSDE received a complaint from Ms.  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 did not ensure that the student was provided with the reading intervention as required by the Individualized Education Program (IEP) from March 15, 2020 to June 19, 2020, in accordance with 34 CFR §§300.101 and 323.
2. The BCPS did not ensure that the decisions made regarding the student’s progress towards achievement of his reading goals from March 15, 2020 to June 19, 2020, were consistent with the data, in accordance with 34 CFR §§300.101 and .324.

3. The BCPS has not revised the student's IEP to address his identified reading needs since March 15, 2020,¹ in accordance with 34 CFR §§300.101, .320, and 324.

BACKGROUND:

The student is ten (10) years old and is identified as a student with a Other Health Impairment under the IDEA, related to Attention Deficit Hyperactivity Disorder (ADHD), and has an IEP that requires the provision of special education instruction and related services.

The student attended [REDACTED] until the March 2020 closure of school buildings and initiation of virtual learning due to the COVID-19 pandemic.

FINDINGS OF FACTS:

1. The IEP in effect on March 15, 2020 was developed on January 23, 2020, at an annual IEP team meeting for the student. The documentation of that meeting reflects that the student was identified with needs in the areas of reading decoding, encoding, phonics, and comprehension. The IEP was revised to include goals for the student to improve his skills in all of these areas, and required special education instruction and support to assist the student in achieving the goals. This includes requiring that the student participate in two (2) reading interventions, one of which was to be designed to address reading comprehension, and the other was to be designed to address phonics, decoding, and fluency.
2. There is no documentation that the student participated in any reading intervention from The closure of school buildings in March 2020 to June 2020, due to the closure of schools and shift to virtual learning.
3. While reports have been made indicating that the student has made sufficient progress towards achievement of the annual IEP goals, those reports do not reflect that progress was measured as described in the IEP, from March 2020 to June 2020.
4. On November 17, 2020, the BCPS provided the complainant with a written response to the State complaint indicating that it is their understanding that the complainant is in the process of obtaining a private evaluation, including psychological, educational, and speech/language assessments. The BCPS reports that, upon completion of the evaluation, it will convene an IEP team meeting to review and revise the IEP, as appropriate, and to determine the compensatory services or other remedy to resolve the allegations in this State complaint.

¹ While the November 6, 2020 correspondence from this office identified the start of the time period for the allegation as January 23, 2020, the complainant clarified on December 16, 2020 that it is March 15, 2020.

CONCLUSIONS:

Allegation #1: Provision of Reading Interventions

Based on the Findings of Facts #1 and #2, the MSDE finds that the BCPS did not ensure that the student was provided with the reading interventions required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #2: Progress Reports

Based on the Finding of Fact #3, the MSDE finds that, because the BCPS did not ensure that the student's progress was measured as described in the IEP, there is no documentation that the reports are consistent with the data, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #3: Addressing Reading Needs

Based on the Findings of Facts #1 - #4, the MSDE finds that, because the BCPS did not ensure that the student's progress on the annual goals was measured as required since March 2020, there is no documentation that the IEP has been appropriate to address the student's reading needs since March 2020, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds a violation with respect to the allegation.

CORRECTIVE ACTIONS:

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.²

This office will follow up with the public agency to ensure that it completes the required action consistent with the MSDE Special Education State Complaint Resolution Procedures. If the public agency anticipates that the timeframe below may not be met, or if any of the parties seeks technical assistance, they should contact Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.³ Dr. Birenbaum can be reached at (410) 767-7770 and at nancy.birenbaum@maryland.gov.

² The OSEP states that the public agency must 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.

³The MSDE will notify the Directors of Special Education of any corrective action that has not been completed within the required timelines.

