




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

June 14, 2021




Dr. Katherine Pierandozzi  
Director of Special Education  
Baltimore County Public Schools  
6901 Charles Street  
Towson, Maryland 21204

RE:   
Reference: #21-085

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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 April 15, 2021, the MSDE received a complaint from Mr.  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 student.

The MSDE investigated the following allegations:

1. The BCPS has not ensured that the Individualized Education Program (IEP) has addressed the student’s interfering behavior of refusal to attend class since April 15, 2020, in accordance with 34 CFR §§ 300.324.
2. The BCPS has not ensured that the IEP has been reviewed annually, and reviewed and revised, as appropriate, to address lack of expected progress, since April 15, 2020, in accordance with 34 CFR §§300.101 and .324.
3. The BCPS has not ensured that the IEP has been implemented, since April 15, 2020, in accordance with 34 CFR §§ 300.101 .323, as follows:
  - a. The student has not consistently been provided with the supports required by the Behavior Intervention Plan (BIP),

- b. The student has not been provided with additional adult support,
  - c. The school staff have not provided the required home school communication; and
  - d. Progress reports have not been provided on a quarterly basis.
4. The BCPS did not obtain parent agreement when amending the IEP for virtual learning on April 20, 2020,<sup>1</sup> in accordance with 34 CFR §300.324.
  5. The BCPS has not implemented the decisions made by the IEP team, on March 12, 2021, to collect academic and behavioral data and reconvene to review the IEP based on the data, in accordance with 34 CFR §§300.101 and 323.

**BACKGROUND:**

The student is eighteen (18) years old and attends [REDACTED] School ([REDACTED]). He is identified as a student with an Other Health Impairment (OHI) under the IDEA relating to Attention Deficit Hyperactivity Disorder (ADHD). He has an IEP that requires the provision of special education and related services.

**FINDINGS OF FACTS:**

1. The IEP in effect on April 15, 2020, indicates that the student's behavioral needs include his frequent off-task behaviors, impulse control, and defiance. It states that the student's impulsivity, executive functioning, and mismanagement of emotions makes it difficult for him to concentrate in his classes and to get along with adults and peers. The IEP also states that, while in school the student elopes from the classroom, avoids classwork, and struggles with attempts to redirect him.
2. The IEP includes a "behavior work habits" goal that requires that the student actively work on the assigned tasks, and refrain from off-task behaviors for the duration of the activity. The "behavior problem solving goal" requires that the student will refrain from yelling, cursing and/or being verbally/physically aggressive and will accept assistance from an adult to problem solve in structured settings.
3. The IEP also reflects that the student requires a BIP, which was revised on May 23, 2020, and includes two (2) goals that require the student to increase his participation in class and remain in assigned areas.

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<sup>1</sup> The complainant alleged that the IEP was amended on May 23, 2020. During the course of the investigation, it was discovered that the date of amendment was April 20, 2020.

4. The IEP requires accommodations and supplementary supports to assist the student, and these include the provision of additional adult support and weekly home/school communication.
5. There is no documentation of weekly home/school email communications from the school staff to the complainant, as required by the IEP.

April 20, 2020, Amendment to the IEP without an IEP Team Meeting

6. On April 20, 2020, an amendment to the IEP was made, to identify the student's services while on virtual instruction. The IEP included text-to-speech accommodations, math tools, frequent breaks, supplementary aids and supports including organizational aids. It also included goals and services for 30 minutes per week for each content area and one (1) session of on-line experience for special education instruction.
7. There is no documentation that the complainant was in agreement with the amendment to the IEP without an IEP team meeting.

May 18, 2020, IEP Meeting

8. On May 18, 2020, the IEP team convened at the request of the complainant. He expressed his concerns about the student's elopement from class, the lack of academic progress and inquired about the need for additional adult support.
9. The special education teacher reported on the student's lack of progress due to his lack of work completion, disruption during class and his periodic elopement and skipping classes.
10. The team revised the IEP to include additional adult support to provide the student with redirection of behaviors, reminders to remain on task and eliminate the elopement and skipping classes.
11. There is no documentation that the student was provided with the additional adult support.

March 12, 2021, IEP Team Meeting

12. On March 12, 2021, the IEP team convened and conducted the annual review of the student's education program. Based on documentation, the last annual review was held on January 29, 2020.
13. At the March 12, 2021, IEP meeting, the complainant expressed concern that the student was not engaged in academic activities. He also expressed concern about the student's placement at [REDACTED] and the questioned the ability of BCPS to provide

appropriate services through virtual instruction. The complainant requested a nonpublic school placement for the student.

14. There is no documentation that the IEP team addressed the complainant's concern that the student needs a different placement.
15. The school staff reported that the student rarely completes work, and rarely attempts work assigned. The social worker stated that attendance has been a problem during virtual instruction.
16. The documentation reflects that the student has a history of interfering behavior of refusal to attend class. The IEP was revised in May 2020 to require additional adult support at the start of each virtual lesson. There is no documentation that the IEP team has addressed the student's interfering behavior of refusal to attend classes during virtual instruction.
17. At the March 12, 2021, IEP meeting, the team discussed that the student was functioning six (6) years below his actual/assigned grade level; specifically at grade levels 5.1 in reading, 5.4 in writing, and 5.1 in math.
18. At the March 12, 2021, IEP team meeting the team discussed holding quarterly IEP team meetings, collecting academic and behavioral data, and determining placement.
19. The IEP requires reports of the student's progress to be provided to the complainant on a quarterly basis. There is no documentation of reports of the student's progress towards mastery of the IEP goals since April 15, 2020.
20. There is no documentation that the decisions made at the March 12, 2021, IEP team meeting have been implemented or that the supports required by the BIP have been consistently implemented.

### **DISCUSSION/CONCLUSIONS:**

#### **Allegation #1**

#### **IEP That Addresses the Interfering Behavior of Refusal to Attend Class**

Based on the Findings of Facts #1, #3, #8 - #10, #13 - #16, and #20, the MSDE finds that the student's interfering behavior of refusal to attend class has not been addressed, since March 12, 2021, in accordance with 34 CFR §300.324. Therefore, this office finds a violation with respect to this allegation.

**Allegation #2                      Annual IEP Review**

Based on the Finding of Fact #12, the MSDE finds that the annual review of the IEP did not occur within one (1) year, in accordance with 34 CFR §§ 300.101-.324. Therefore, this office finds a violation with respect to this allegation.

**Allegation #3                      IEP Implementation**

BIP Implementation

Based on the Findings of Facts #3, #16 and #20, the MSDE finds that there is no documentation that the BIP requirements were implemented, in accordance with 34 CFR §§300.101 and .323. Therefore, the MSDE finds a violation with respect to this aspect of the allegation.

Additional Adult Support

Based on the Findings of Facts #8, #10, and #11, the MSDE finds that there is no documentation that additional adult support was provided, in accordance with 34 CFR §§300.301 and .323. Therefore, the MSDE finds a violation with respect to this aspect of the allegation.

Home-school Communications

Based on the Findings of Facts #4 - #5, the MSDE finds that there is no documentation that the school staff provided the complainant with weekly email reports required by the IEP, in accordance with 34 CFR §§ 300.101 and .323. Therefore, the MSDE finds a violation with respect to this aspect of the allegation.

Provision of Progress Reports

Based on the Finding of Fact #19, the MSDE finds that there is no documentation that IEP progress reports have been provided since April 15, 2020, in accordance with 34 CFR §§300.301 and .323. Therefore, the MSDE finds a violation with respect to this aspect of the allegation.

**Allegation #4                      Parent Agreement to Amend the IEP Without an IEP Meeting**

Based on the Findings of Facts #6 and #7, the MSDE finds that the BCPS did not ensure that proper procedures were followed when the IEP was revised outside of an IEP meeting without agreement of the complainant on April 20, 2020, in accordance with 34 CFR §300.324. Therefore, this office finds a violation with respect to this allegation.



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### **School-Based**

The MSDE requires the BCPS to provide documentation of the steps it has taken to ensure that the violations do not recur at [REDACTED].

The documentation must include a description of how the school system will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not reoccur. Documentation of all corrective action taken is to be submitted to this office to: Attention: Chief, Family Support and Dispute Resolution Branch, Division of Early Intervention and Special Education Services, MSDE.

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 timeframes 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 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  
and Special Education Services

MEF/sef

c: Darryl Williams  
Katherine Pierendozzi  
Jason Miller  
Conya Bailey  
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