



Mohammed Choudhury
State Superintendent of Schools

July 15, 2022

[REDACTED]

Dr. Joan Dabrowski
Chief Academic Officer
Baltimore City Public Schools
200 E. North Avenue, Room 204 B
Baltimore, MD 21202

RE: [REDACTED]
Reference: #22-161

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 May 18, 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 City 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 was provided with the special education instruction in the educational placement required by the Individualized Education Program (IEP), since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101, .114, and .323.
2. The BCPS has not ensured that the IEP contains appropriate measurable goals and an accurate statement of the student’s present levels of academic achievement and functional performance since the start of the 2021-2022 school year, in accordance with 34 CFR §300.320.
3. The BCPS has not ensured that the IEP addresses the student’s academic needs since May 18, 2021¹, in accordance with 34 CFR §§300.101, .320, and .324.

¹ While it alleges that the violation started prior to this date, the complainant was informed that only those violations that are alleged to have occurred within one (1) year can be resolved through the State complaint investigations procedure. (34 CFR §300.153)

4. The BCPS has not ensured that the parent was provided with reports of the student's progress towards achieving the annual IEP goals since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.320.
5. The BCPS did not provide the parent with proper prior written notice (PWN) of the team's decision to reduce the student's specialized instruction following the March 24, 2022 IEP team meeting, in accordance with 34 CFR §300.503.
6. The BCPS has not ensured that the student has been consistently provided with the use of a highlighter, use of manipulatives, alternative ways to demonstrate learning, simplified sentence structure, vocabulary, and graphics on assignments and assessments, and pictures to support reading passages, as required by the IEP, since November 2, 2021, in accordance with 34 CFR §§300.101 and .323.

BACKGROUND:

The student is fifteen years old and is identified as a student with an Intellectual Disability under the IDEA. She attends ██████████ and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1:

INSTRUCTION IN THE STUDENT'S EDUCATIONAL PLACEMENT

FINDINGS OF FACTS:

1. The student's IEP in effect at the start of the 2021-2022 school year was developed on May 17, 2021. The IEP reflects that she has identified needs in the areas of math calculation, problem solving, reading phonics, vocabulary, comprehension, written language mechanics and written language expression. The IEP requires specialized instruction for twenty-five hours per week outside of the general education classroom. Additionally, the student's IEP requires "15-20 minute small group rotation" where the student is with non-disabled peers during physical education, music, and art class.
2. On March 24, 2022, the IEP team convened to review and revise, as appropriate, the student's IEP. The PWN generated following the IEP team reflects that the IEP team determined the student's "art class was not scheduled with non-disabled peers as outlined in her IEP."

CONCLUSION:

Based upon the Findings of Facts #1 and #2, the MSDE finds that the BCPS has not ensured that the student was provided with the special education instruction in the educational placement required by the IEP, since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101, .114, and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2, #3, AND #5: AN IEP THAT CONTAINS MEASURABLE GOALS AND PRESENT LEVELS OF PERFORMANCE, ADDRESSES THE STUDENT'S ACADEMIC NEEDS, AND PROVISION OF PROPER PRIOR WRITTEN NOTICE

FINDINGS OF FACTS:

3. The student's present level of performance in the area of reading phonics in her May 17, 2021 IEP, reflects that the student's performance was at a kindergarten instructional level. The IEP team determined that the student can sound out simple CVC words with teacher modeling and prompting, recognize lower and uppercase letters, identify rhyming words, and distinguish between long and short vowel sounds. The IEP team further determined that the student has difficulty identifying beginning, middle and ending sounds of CVC words and is "working on sounding out individual sounds and blending them together to form the simple CVC word." The student's reading phonics IEP goal developed by the team states that "by March 2022, with the use of visual aids and teacher prompting, the student will blend together phonemes to create single syllable words from a list of 10 common CVC words in 3 out of 4 trials."
4. The student's present level of performance in the area of reading vocabulary in her May 17, 2021 IEP, reflects the student's performance at an early kindergarten instructional level. The IEP team determined that the student can read vocabulary words with support and match the picture cards to the definition. The IEP team further determined that the student has difficulty with identifying synonyms and antonyms of words. The student's reading vocabulary IEP goal developed by the team states that "by March 2022, using a variety of instructional level texts or sentences, picture with vocabulary cards, the student will determine the meaning of unfamiliar and multiple-meaning words in four out of five trials with 80% accuracy as measured by teacher-made assessments."
5. The student's present level of performance in the area of reading comprehension in her May 17, 2021 IEP, reflects the student's performance at a kindergarten instructional level. The IEP team determined that the student can "choose the correct work to complete the sentence and match the picture that is being described in a sentence." The IEP team further determined that the student has difficulty "identifying the main idea of the text." The student's reading comprehension IEP goal developed by the team states that "by March 2022, given a portion of an adapted grade level text that is being read-aloud, and a graphic organizer, the student will recount or identify details/event/characters/setting related to the central idea from a field of picture choices in four out of five trials with 80% accuracy as measured by teacher -made assessments."
6. The student's present level of performance in the area of math calculation in her May 17, 2021 IEP, reflects the student's performance at an early kindergarten instructional level. The IEP team determined that the student can "identify and match numbers 1-10, identify shapes, count the number of dots and match it to the corresponding number, can subtract 1 or 2 from the given

- number using the calculator, and can add 5 to a given number using the calculator.” The IEP team further determined that the student has difficulty “identifying numbers 11-20.” The student’s math calculation IEP goal developed by the team states that “by March 2022, given a variety of sets of manipulatives or pictures, a number line, number cards and symbols of less than, greater than or equal to, the student will identify whether the number of objects in one group is more, less or equal to the number of objects in another group in four out of five trials with 80% accuracy as measured by teacher made assessments.”
7. The student’s present level of performance in the area of math problem solving in her May 17, 2021 IEP, reflects the student's performance at an early kindergarten instructional level. The IEP team determined that the student can “demonstrate the number 1 and count one or two objects in a picture that did not contain other objects.” The IEP team further determined that the student has difficulty” identifying the correct object or counting objects correctly” if the objects are different, and “solving addition and subtraction word problems within 10.” The student’s math problem solving IEP goal developed by the team states that “by March 2022, given manipulatives and after teacher modeling, the student will solve simple algebraic equations with one variable using addition in four out of five trials with 80% accuracy as measured by teacher-made assessments.”
 8. The student’s present level of performance in the area of written language mechanics in her May 17, 2021 IEP, reflects the student's performance at a pre-kindergarten instructional level. The IEP team determined that the student can copy shapes, print letters, and trace printed letters. The IEP team further determined that the student has difficulty spacing and writing letters when spoken to her. The student’s written language mechanics IEP goal developed by the team states that “by March 2022, given spoken names of familiar consonants and vowels, the student will legibly form all uppercase letters and all lowercase letters using pencil and paper, in (2 out of 3) writing prompts, with 80% accuracy as measured by informal classroom-based assessments.”
 9. The student’s present level of performance in the area of written language expression reflects in her May 17, 2021 IEP, the student's performance at a late pre-kindergarten instructional level. The IEP team determined that the student can write most of the letters in her name. The student’s written language expression IEP goal developed by the team states that “by March 2022, given teacher-created writing prompts and sentence starters, the student will complete the sentence through dictation to compose 5 sentences that respond to the writing prompt with 80% accuracy writing assignments.”
 10. The student’s IEP, developed on March 24, 2022, reflects that she has identified needs in the areas of math calculation, problem solving, reading phonics, comprehension, and written language mechanics. The IEP requires specialized instruction for twenty-five hours per week outside of the general education classroom.
 11. The student’s present level of performance in the area of math calculation in her

March 24, 2022 IEP, reflects the student's performance at a .3 grade equivalent. The IEP team determined that the student can "access one-digit addition and subtraction problems with support. The student has "limited comprehension of geometric vocabulary." The student's math calculation IEP goal developed by the team states that "by March 2023, given a model, a calculation device, graphic organizer, manipulatives, a number chart and no more than two verbal prompts, the student will add whole numbers with sums up to 25 in four out of five trials with 80% accuracy as measured by teacher made assessments."

12. The student's present level of performance in the area of math problem solving in her March 24, 2022 IEP reflects the student's performance at a .3 grade equivalent. The IEP team determined that the student can access "one-digit addition and subtraction problems with support, and verbally state her answer or point to the correct picture." The student's math problem solving IEP goal developed by the team states that "by March 2023, given a model, a calculation device, graphic organizer, manipulatives, a number chart and no more than two verbal prompts, the student will solve one-step addition word problems using money/whole numbers with sums up to twenty dollars/twenty in 3 out of 4 trials over two consecutive weeks with 75% accuracy as measured by teacher-made assessments."
13. The student's present level of performance in the area of written language mechanics in her March 24, 2022 IEP, reflects the student's performance at a kindergarten level. The IEP team determined that the student can write the letters of her name with close supervision. The IEP team determined that the student has difficulty writing opinion pieces, writing her full name independently, and cannot "make" three word sentences. The student's written language mechanics IEP goal developed by the team states that "by March 2023, given an alphabet chart/model and with no more than two verbal prompts, the student will write/type her first and last name with 100% accuracy in 4 out 5 trials over two consecutive weeks as measured by teacher made assessments."
14. The student's present level of performance in the area of reading phonics in her March 24, 2022 IEP, reflects the student's performance at a kindergarten level. The IEP team determined that the student can identify "some" lower case letters. The IEP team determined that the student has difficulty decoding simple "VC and CVC words" with short vowel sounds, "identifying the sounds associated with each letter, and recognizing and producing rhyming words." The student's reading phonics IEP goal developed by the team states that "by March 2023, when given flashcards with words and picture as well as prompting, the student will orally produce fifteen single syllable CVC words by blending sounds in 3 out of 4 trials with 75% accuracy as measured by teacher-made assessments."
15. The student's present level of performance in the area of reading comprehension in her March 24, 2022 IEP, reflects the student's performance at a kindergarten level. The IEP team determined that the student can identify the "picture that shows the central idea of the paragraph/sentence with support, identify the title of the story with prompts, and give the synonyms of common adjectives with prompting." The student's reading comprehension IEP

goal developed by the team states that “by March 2023, given a portion of an adapted grade level text that is being read to her, the student will determine the main idea and two supporting details by verbally stating the answer or pointing to the correct answer in a field of three words with picture answer choices in 3 out of 4 trials with 75% accuracy as measured by teacher-made assessments.”

16. The PWN generated for the March 24, 2022 IEP team meeting reflects that the IEP team “originally proposed a Written Language Expression goal; this proposal was rejected and a Written Language Mechanics goal will be created.” The IEP team considered a written language expression goal, however it was rejected and a written language mechanics goal was created. There was no rationale provided for this decision in the PWN.

CONCLUSIONS:

Allegation #2: An IEP That Contains Measurable Goals and Statements of the Student’s Performance

Based on the Findings of Facts #1, #3 - #9 and #11 - #15, the MSDE finds that the BCPS has ensured that the IEP contains appropriate measurable goals and an accurate statement of the student’s present levels of academic achievement and functional performance since the start of the 2021-2022 school year, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation has not occurred with respect to this allegation.

Allegation #3: An IEP That Addresses the Student’s Needs

Based on the Findings of Facts #1 and #3 - #15, the MSDE finds that the BCPS has ensured that the IEP addresses the student’s academic needs since May 18, 2021², in accordance with 34 CFR §§300.101, .320, and .324. Therefore, this office finds that a violation has not occurred with respect to this allegation.

Allegation #5 Provision of Prior Written Notice

Based on the Findings of Facts #8, #9, #13, and #16, the MSDE finds that the BCPS did not provide the parent with proper PWN of the team’s decision to reduce the student’s specialized instruction following the March 24, 2022 IEP team meeting, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #4: PROVISION OF PROGRESS REPORTS

FINDINGS OF FACT:

² While you allege that the violation occurred prior to this date, only those violations that are alleged to have occurred within one (1) year can be resolved through the State complaint investigations procedure. (34 CFR §300.153)

17. The BCPS acknowledges that a violation occurred with respect to this allegation. Specifically, the BCPS acknowledges there is no documentation that reports of the student's progress were provided to the parent. Subsequently, after the March 24, 2022 IEP team meeting, the BCPS provided the "IEP Report card and IEP interim progress reports for quarters 1-3 of the 2021/22" school year to the parent by U.S. mail.

CONCLUSION:

Based upon the Findings of Fact #17, the MSDE concurs with the BCPS conclusion that a violation occurred as to this allegation and appreciates the school system's response to the investigation.

Notwithstanding the violation, the MSDE finds that the reports of the student's progress were subsequently provided to the parent by U.S. mail. Therefore, no further student-specific corrective action is required with respect to this allegation.

ALLEGATION #6:

PROVISION OF SUPPLEMENTARY AIDES

FINDINGS OF FACTS:

18. The BCPS acknowledges that a violation occurred with respect to the provision of the use of a highlighter, use of manipulatives, alternative ways to demonstrate learning, simplified sentence structure, vocabulary, and graphics on assignments and assessments, and pictures to support reading passages, as required by the IEP. The IEP team awarded the student with fifty (50) hours of compensatory services to redress the violation.
19. There is documentation that the student has been provided with her accommodations as required by the IEP since April 4, 2022.

CONCLUSION:

Based upon the Findings of Fact #18, the MSDE concurs with the BCPS conclusion that a violation occurred as to this allegation and appreciates the school system's response to the investigation.

Notwithstanding the violation, based upon Findings of Facts #18 and #19, the MSDE finds that the IEP team convened and awarded the student with compensatory educational services in reading, math, and written language to address this violation. Therefore, no further student-specific corrective action is required 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). 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.³ 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.⁴ 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 September 1, 2022, of the following actions:

- a. That the IEP team has convened to determine whether the violation related to instruction in the student's appropriate educational placement 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
- b. That the IEP team has convened to clarify the determinations made regarding the removal of the students' vocabulary and written language goals from the current IEP and that the PWN documents the team's decision. The IEP team should determine whether the removal of the goals 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

³ 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.

⁴ 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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The BCPS must ensure that the parents are 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 October 1, 2022, of the steps it has taken to ensure that the ██████████ staff properly implements the requirements for educational placement, provision of progress reports, provision of supplementary aids and services, as well as the provision of a proper prior written notice. The documentation must include a description of how the BCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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: Sonja Santelises
Macon Tucker
Christa McGonigal
██████████

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