



Mohammed Choudhury
State Superintendent of Schools

January 17, 2023



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

RE: [REDACTED]
Reference: #23-094

Dear Parties:

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 November 17, 2022, MSDE received a complaint from Ms. [REDACTED] and Mr. [REDACTED] hereafter, “the complainants,” on behalf of their 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:

MSDE investigated the following allegations:

1. The BCPS has not developed an Individualized Education Program (IEP) that addresses the student’s identified spelling and reading needs since November 17, 2021, in accordance with 34 CFR §§300.101 and .324.
2. The BCPS did not ensure that the student was provided with specialized instruction in “reading phonics”, text to speech, and “no penalty” accommodation, required by the IEP since November 17, 2021¹, in accordance with 34 CFR §§300.101 and .323.

¹ In the complaint, the complainant alleged allegations that extended beyond one year from the date the complaint was received. However, 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).

3. The BCPS has not ensured that the progress reported towards the achievement of the annual IEP academic goals have been consistent with the data, since November 17, 2021, in accordance with 34 CFR §§300.320 and .323.
4. The BCPS did not ensure that information was provided about the individuals who would be attending the March 21, 2022, IEP team meeting in writing no less than ten days before the meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
5. The BCPS did not follow proper procedures when excusing in part the regular education teacher from the March 21, 2022, IEP team meeting, in accordance with 34 CFR §300.321.
6. The BCPS did not ensure that the IEP team considered the results of an independent educational evaluation (IEE) obtained at private expense provided to them October 2021 by the parent at the March 21 2022, IEP team meeting, in accordance with 34 CFR §300.324 and .502.
7. The BCPS did not provide proper written notice of the March 21, 2022, IEP team's decision to remove human reader and limit amount to be copied from the board and the April 20, 2022, IEP team's decision to remove the student's academic needs from the present levels of performance, in accordance with 34 CFR §300.503.
8. The BCPS has not ensured that the IEP team has addressed the parent's concerns regarding the student's accommodations, use of reading assessments, and recommendations of the IEE, since March 2022, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is sixteen years old and is identified as a student with a specific learning disability under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of specialized instruction and related services.

ALLEGATIONS #1, #2, and #7:

**AN IEP THAT ADDRESSES THE STUDENT'S NEEDS,
PROVISION OF SPECIALIZED INSTRUCTION AND
SUPPORTS AND PROVISION OF PRIOR WRITTEN NOTICE**

FINDINGS OF FACTS:

1. The student's IEP, in effect on November 2021, and developed on April 26, 2021, reflects that he has identified needs in the areas of "reading, writing, behavioral, and career/vocational." The IEP requires specialized instruction in reading phonics for one hour monthly outside the general education classroom. The IEP also requires specialized instruction in reading and written language for one hour monthly inside the general education classroom. Additionally, the IEP requires that the student be provided with a "human reader" to assist with "unfamiliar vocabulary and/or difficult content" and "limit amount to be copied from the board" as accommodations. The IEP also requires that the student should not be "penalized for errors in spelling, punctuation, or capitalization in assignments not related to spelling or writing" and that he should be provided with an organizer, and a "word bank of content specific vocabulary to help with spelling." The IEP provides an accommodation of text to speech for assessments and instruction in mathematics, science, and government.

2. The student's present level of performance in the area of reading, in April 2021, reflects that his current reading decoding instructional level is "end of eighth grade." The IEP team determined that the student demonstrates strengths in "segmenting non-words, phonological memory, and sight word recognition. The IEP team further determined that the student has difficulty decoding words that are multi-syllabic, irregular, and/or from a different time period/language." The student's reading phonics goal developed by the IEP team states that "by April 2022, given an unfamiliar instructional-level passage with familiar or unfamiliar teacher-selected words (e.g. words with common prefixes and suffixes, multisyllabic, or irregularly spelled words), [the student] will read the passage aloud and correctly decode the selected words with 100% accuracy."
3. The student's present level of performance in the area of writing (spelling), in April 2021, reflects his current instructional level is "middle sixth grade." The IEP team determined that the student demonstrates strengths in "simple sentence composition, complex sentences, paragraph writing, and writing a claim sentence with supporting details and conclusion." The IEP team further determined that the student has difficulty "spelling multisyllabic and/or irregular words." The student's "writing-spelling" goal developed by the IEP team states that "by April 2022, when given a list of 10 regular phonetic words (multisyllabic) that follow directly taught phonics patterns, [the student] will spell the words with 90% accuracy."
4. The student's IEP developed on March 21, 2022, reflects that he has identified needs in the areas of "reading, writing, and behavioral." The IEP requires specialized instruction for thirty minutes monthly "inside the general education classroom to support using accommodations to support self-editing spelling work." Additionally, the IEP requires that the student be provided with a "word processing for spelling resources." "If a word processor is not available, provide [the student] with spell check resources (i.e. dictionary)." The IEP also requires that the student have an opportunity to edit assignments before grading to directly support his goal in self-correcting deficits. The IEP provides an accommodation of text to speech for assessments and instruction in mathematics, science, and government.
5. The student's present level of performance in the area of reading, in March 2022, reflects his current reading instructional level is tenth grade. The IEP team determined that the student demonstrates strengths in fluency, comprehension, decoding words in context and isolation, and sight word recognition. The IEP team further determined that the student has difficulty decoding nonsense words and decoding proper nouns.
6. The student's present level of performance in the area of writing (spelling), in March 2022, reflects his current instructional level is ninth grade. The IEP team determined that the student demonstrates strengths in "simple sentence composition, complex sentences, paragraph writing, and writing a claim sentence with supporting details and conclusion." The IEP team further determined that the student has difficulty "spelling multisyllabic and/or irregular words." The student's "writing-spelling" goal developed by the IEP team states that "by January 2023, when given a draft of the student's own work (e.g. from English, history, or science class), [the student] will independently correct at least 5 commonly misspelled and domain-specific words using a reference or spell check in 2/3 trials."
7. There is no documentation that the parent was provided with prior written notice indicating the basis for the IEP team's decision to remove "human reader" and "limit amount to be copied from the board" accommodations from the student's IEP.

8. The student's IEP developed on April 20, 2022, reflects that he has identified needs in the areas of "reading, writing, and behavioral." The IEP requires specialized instruction for thirty minutes monthly "inside the general education classroom to support using accommodations to support self-editing spelling work." The IEP also requires thirty minutes monthly "outside the general education classroom to support self-editing spelling work." Additionally, the IEP requires that the student be provided with a "word processor for spelling resources" to support irregular spelling and that "if a word processor is not available, provide [the student] with spell check resources (i.e. dictionary). [The student] should be provided with the opportunity to revise errors in spelling, punctuation or capitalization in assignments with no grading penalty to directly support his goal in self-correcting convention deficits." The IEP provides an accommodation of text to speech for assessments and instruction in mathematics, science, and government.
9. The student's present level of performance in the area of reading, in April 2022, reflects his current reading instructional level is tenth grade. The IEP team determined based upon assessment findings that the student can decode words from a high school list at one hundred percent accuracy. He can read high school passages at ninety-nine percent accuracy, and self-correct his decoding mistakes. The IEP team further determined that the student has difficulty decoding proper nouns, final consonant sounds, "changing a real word to another real word", and nonsense words. The student's reading comprehension ranges between on grade level to above grade level. He grasps "content satisfactorily, completes assignments timely", and his reading skills are on grade level or above.
10. The student's present level of performance in the area of writing (spelling), in April 2022, reflects his current instructional level is ninth grade. The IEP team determined based upon assessment findings that the student can spell 5/5 high school level words accurately, he is able to "utilize supporting quotes, appropriately cite his sources and support his claim with subtopics and support his subtopics with evidence with one hundred percent accuracy." The IEP team further determined that the student has difficulty recognizing when to "utilize double consonants and substituting and omitting letters" and that the student's "writing-spelling" goal developed by the IEP team states that "by January 2023, when given a draft of the student's own work (e.g. from English, history, or science class), [the student] will independently correct at least 5 commonly misspelled and domain-specific words using a reference or spell check in 2/3 trials."
11. The student's IEP developed on October 10, 2022, reflects that he has identified needs in the areas of "reading phonics, reading comprehension, writing, and behavioral." The IEP requires specialized instruction for thirty minutes monthly "inside the general education classroom to support using accommodations to support self-editing spelling work." The IEP also requires thirty minutes monthly "outside the general education classroom to support self-editing spelling work." Additionally, the IEP requires that the student be provided with a "word processor to support irregular spelling. If a word processor is not available, provide [the student] with spell check resources (i.e. dictionary). [The student] should be provided with the opportunity to revise errors in spelling, punctuation or capitalization in assignments with no grading penalty to directly support his goal in self-correcting convention deficits." The IEP further provides an accommodation of text to speech for assessments and instruction in mathematics, science, and government.
12. The student's present level of performance in the area of reading decoding, in October 2022 reflects his current reading instructional level is tenth grade and reading fluency is eleventh grade. The IEP team determined based upon assessment findings that the student can decode words from an advanced decoding list with eighty-three percent accuracy. The IEP team further determined that the student has difficulty decoding proper nouns, final consonant sounds, "changing a real word to

another real word”, and nonsense words. Teacher reports from September and October 2022 reflect the student’s collective reading abilities range from on grade level to above grade level.

13. The student’s present level of performance in the area of spelling, in October 2022, reflects his current instructional level is ninth grade. The IEP team determined, based upon assessment findings, that the student “can spell 5/5 high school level words accurately. In Quarter one of the 2022-2023 school year, [the student] completed a Summer Reading Rhetorical Essay with 25/30 (83%) accuracy in his AP English 10 Language and Composition course. [The student] utilized his word processor during this assessment, which supported spelling and writing fluency. In Quarter 3 of the 2021-2022 school year, [the student] completed an AP Synthesis Collaborative Writing Essay planning practice with 9/9 (100%) accuracy as indicated by a teacher created rubric.” The IEP team further determined that the student has difficulty recognizing when to “utilize double consonants and substituting and omitting letters.” Teacher reports from September and October 2022 reflect the student’s collective written expression abilities range from on grade level to above grade level. The student’s “writing-spelling” goal developed by the IEP team states that “by January 2023, when given a draft of the student’s own work (e.g. from English, history, or science class), [the student] will independently correct at least 5 commonly misspelled and domain-specific words using a reference or spell check in 2/3 trials.
14. There is documentation that the student was provided with specialized instruction in reading phonics from November 2021 to March 2022 as required by the IEP.
15. There is documentation that the student has access to a BCPS issued device with the capability to provide text to speech since November 2021 as required by the IEP.
16. There is documentation that the text to speech accommodation was provided by a resource teacher or his device from November 17, 2021 to June 13, 2022 and September 8, 2022 to December 12, 2022, as required by the IEP.
17. There is documentation that on September 23, 2021, October 22, 2021, November 4, 2021, and December 15, 2021 the student was penalized for spelling errors on Chemistry assignments.

CONCLUSIONS:

Allegation #1: IEP That Addresses Student’s Spelling and Reading Needs

Based on the Findings of Facts #1 to #6 and #8 to #13, MSDE finds that BCPS has developed an IEP that addresses the student’s identified spelling and reading needs since November 17, 2021, in accordance with 34 CFR §§300.101 and .324. Therefore, this office does not find that a violation occurred with respect to this allegation.

Allegation #2: Provision of Specialized Instruction and Supports

Based upon Findings of Facts #1, #4, #8, #11, and #14, MSDE finds that the BCPS did ensure that the student was provided with specialized instruction in “reading phonics”, as required by the IEP between November 17, 2021 and March 21, 2022, in accordance with 34 CFR §§300.101 and .323. MSDE further finds that based on Findings of Facts #4, #8 and #11, the student’s IEPs developed in March, April, and October 2022 no longer required the provision of specialized instruction in reading phonics, and that the BCPS was not required to

ensure that the student was provided this service since March 2022. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based upon Findings of Facts #1, #4, #8, #11, #15, and #16, MSDE finds that the BCPS did ensure that the student was provided with specialized instruction in text to speech as required by the IEP since November 17, 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based upon Findings of Facts #1, #4, #8, #11, and #17, MSDE finds that the BCPS has not ensured that the student was provided with “no penalty” accommodation as required by the IEP since November 17, 2021, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred with respect to this aspect of the allegation.

Allegation #7: Provision of Prior Written Notice

Based upon Findings of Facts #1, #4, and #7, MSDE finds that the BCPS did not provide proper written notice of the March 21, 2022, IEP team’s decision to remove “human reader” and “limit amount” to be copied from the board, in accordance with 34 CFR §300.503. In addition, based on Findings of Facts #4 and #8, MSDE finds that there was no change to the areas identified as needs for the student following the April 2022 IEP meeting and that the BCPS was not required to provide the parent with prior written notice of this decision following the meeting. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #3: PROGRESS CONSISTENT WITH THE DATA

FINDINGS OF FACTS:

18. Reports on the student’s progress towards achieving annual IEP goals dated January 25, 2022, for reading phonics includes data to support the conclusion that the student achieved the goal within a year.
19. Reports on the student’s progress towards achieving annual IEP goals dated March 21, 2022, for reading phonics includes data to support the conclusion that the student achieved the goal within a year.
20. Reports on the student’s progress towards achieving annual IEP goals dated January 31, 2022 and March 21, 2022, for writing spelling includes data to support the conclusion that the student was making sufficient progress to achieve the goal within a year.
21. Reports on the student’s progress towards achieving annual IEP goals dated April 8, 2022, for writing-spelling reflects the IEP goal was “developed and finalized less than three weeks ago; therefore, adequate progress monitoring was unable to be collected. [The student] was introduced to the self-correcting/reference materials on his device and began practicing its use. Additional data will continue to be collected as this goal is worked on.”
22. Reports on the student’s progress towards achieving annual IEP goals dated June 16, 2022, for writing spelling includes data to support the conclusion that the student was making sufficient progress to achieve the goal within a year.

23. Reports on the student's progress towards achieving annual IEP goals dated November 4, 2022, for writing spelling includes data to support the conclusion that the student achieved the goal within a year.

CONCLUSION:

Based upon Findings of Fact #18 to #23, MSDE finds that the BCPS has ensured that the progress reported towards achievement of the annual IEP academic goals have been consistent with the data, since November 17, 2021, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation did not occur with respect to the allegation.

ALLEGATION #4

PROPER NOTICE OF IEP MEETING PARTICIPANTS

FINDINGS OF FACTS:

24. There is documentation that the complainant was provided with notice of the March 17, 2022, IEP team meeting on February 22, 2022. The notice reflects that the following participants are expected to attend:

- Administrator/Designee
- Special Educator
- General Educator
- Student
- Parent/Guardian
- Guidance-Secondary

25. There is documentation that the IEP team meeting was convened on March 21, 2022. The IEP Team Summary drafted after the meeting reflects the following team members participated in the IEP team meeting:

- Administrator/Designee
- Special Educator
- General Educator
- Student
- Parent/Guardian
- School Psychologist

26. There is no documentation that the parent was provided notice that a school psychologist was expected to attend.

CONCLUSION:

Based upon Findings of Fact #24 to #26, MSDE finds that the BCPS did not ensure that information was provided about the individuals who would be attending the March 21, 2022, IEP team meeting in writing no less than ten days before the meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #5:

EXCUSAL OF IEP MEETING PARTICIPANTS

FINDINGS OF FACTS:

27. There is documentation that the general education teacher was invited and participated in the March 21, 2022 IEP team meeting.
28. There is no documentation to support the parent's allegation that the general education teacher was excused in part from the March 21, 2022 IEP team meeting.

CONCLUSION:

Based upon Findings of Facts #27 and #28, MSDE finds that the BCPS did not excuse in part the regular education teacher from the March 21, 2022, IEP team meeting, in accordance with 34 CFR §300.321. Therefore, this office does not find that a violation occurred with respect to the allegation.

ALLEGATION #6

CONSIDERATION OF IEE

FINDINGS OF FACTS:

29. There is documentation that the complainant provided a private neuropsychological assessment to the BCPS on October 26, 2021.
30. There is documentation that the IEP team met on March 21, 2022 and April 20, 2022, and did not review the assessment provided by the complainant.
31. There is documentation that the IEP team met on September 16, 2022, and reviewed the assessment provided by the complainant. The IEP team updated the student's present level of performance to reflect the data from the assessment.

CONCLUSION:

Based upon Findings of Facts #29 to #31, MSDE finds that the BCPS has not ensured that the IEP team considered the results of an assessment obtained by the parent provided to them in October 2021 at the March 21 2022 and April 20, 2022, IEP team meetings, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #8:

ADDRESSING PARENTAL CONCERNS

FINDINGS OF FACTS:

32. On March 21, 2022, the IEP team met to review and revise the IEP and determine ESY services. During the IEP team meeting, the team proposed removing the student's supplementary aid related to ensuring that the student was not penalized for spelling capitalization and punctuation because he could be supported with specialized instruction that would assist him with spelling and writing resources and assistive technology. The parent disagreed with this proposal; however, the IEP team responded that the student would continue to have access to supplementary aids including spelling resources, an opportunity to edit work prior to grading, and extended time.

33. On March 21 and 30, 2022, the complainant emailed the BCPS expressing concerns regarding the IEP team's decision to remove the student's accommodations that support his spelling needs.
34. On April 20, 2022, the IEP team met to conduct a reevaluation of the student, review the results of assessment data, and review and revise the student's IEP. During the IEP team meeting, the team proposed removing the use of a human reader from the student's IEP. The parent disagreed with the IEP team's recommendation. The IEP team determined that the student did not qualify for the "broad application of the human reader", to apply to all subjects. The IEP team determined based upon the student's performance data that he would continue to receive the "accessibility feature" for human reader in math, government, and science.
35. On September 16, 2022, the IEP team met to review the private assessment, review and revise the IEP, and conduct re-evaluation planning. The prior written notice generated following the meeting reflects that the parent expressed concerns regarding the student's accommodations and that the informal assessment data collected by the team was not reliable. The IEP team agreed to update the software on the student's assistive technology device to better support his self-editing. The IEP team discussed the student's reading and classroom performance, and reviewed classroom assessment data and assessment data provided by the parent.
36. On October 10, 2022, the IEP team met to conduct a reevaluation of the student and review and revise the student's IEP. The prior written notice generated after the meeting reflects, the parent disagreed with the following IEP team recommendations:
 - removal of a phonics goal and services,
 - the student does not require a spelling goal and services,
 - the student does not qualify for text to speech for all content areas
 - the student does not require "limit copy from the board" as supplementary aid

The IEP team reviewed the student's present levels of performance, informal and formal assessments including the private assessment provided by the complainant, teacher reports, classroom based assessments in phonics, spelling, and comprehension for the basis for the team decisions.

CONCLUSION:

Based upon Findings of Facts #32 to #36, MSDE finds that the BCPS has ensured that the IEP team has addressed the parent's concerns regarding the student's accommodations, use of reading assessments, and recommendations of the private assessment, since March 2022, in accordance with 34 CFR §300.324. Therefore, his office finds that a violation did not occur with respect to 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, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that non-compliance is corrected in a timely manner.² This office will follow up with the public agency to ensure that it completes the required actions consistent with 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.³ Ms. Eisenstadt can be reached at (410) 767-7770 or by email at Diane.Eisenstadt@maryland.gov.

Student Specific:

MSDE requires the BCPS to provide documentation by March 1, 2023, of the following actions:

- a. That it has provided the parents with a proper prior written notice of the IEP team's decisions to remove "human reader" and "limit amount to be copied from the board" from the March 21, 2022 IEP team meeting.
- b. That it has convened an IEP team meeting to determine whether the violations identified in this Letter of Findings regarding the provision of the no penalty accommodation, proper provision of IEP team meeting notice to include IEP meeting participants, and the delayed review of the private assessment, 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 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:

MSDE requires the BCPS to provide documentation by March 1, 2023, of the steps it has taken to ensure that the staff at [REDACTED] School properly implements the requirements for the provision of supplementary aids and accommodations, the provision of proper written notice, the review of an IEE, and the provision of proper IEP meeting notices under the IDEA. These steps must include staff development, as well as tools developed to monitor the action steps, a monitoring schedule and provision of the completed monitoring tool to MSDE by May 1, 2023. 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 identified in this Letter of Findings do not recur.

² 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, 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.

³ 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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins
Deputy Superintendent
Office of the Deputy Superintendent of Teaching and Learning

DMC/tg

c: Darryl Williams
Jason Miller
Charlene Harris

Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Tracy Givens