



June 29, 2023



Ms. Allison Myers  
Baltimore County Public Schools  
Jefferson Building, 4<sup>th</sup> Floor  
105 W Chesapeake Avenue  
Towson, Maryland 21204

RE: [REDACTED]  
Reference: #23-213

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 8, 2023, MSDE received a complaint from Mr. [REDACTED] and Ms. [REDACTED], hereafter, “the complainants,” on behalf of their son, the above-referenced student. In that correspondence, the complainants 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 did not ensure that the Individualized Education Program (IEP) team convened to review the student’s IEP before March 24, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
2. The BCPS has not ensured that the student has been provided with the instructional and testing accommodations and supplementary aids and services required by the IEP, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323. Specifically, the following was alleged:
  - a. The student was not provided with the use of manipulatives;
  - b. The student was not provided with reduced output;
  - c. The student was not provided with test response monitoring;
  - d. The student was not provided directions read aloud; and
  - e. The student was not provided a scribe during assessment and/or in the academic setting.

3. The BCPS did not ensure that the parent was afforded the opportunity to participate in the IEP team meeting on February 22, 2023, in accordance with 34 CFR §§300.501 and .322.

**BACKGROUND:**

The student is ten years old and is identified as a student with Other Health Impairments under the IDEA. The student attends [REDACTED]. The student has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

**ALLEGATIONS:**

1. The IEP in effect at the start of the school year was developed on March 24, 2022. It requires that the student receive support in the areas of math calculation, writing, social/emotional/behavioral, and visual perceptual/motor.
2. The IEP requires that the student receive two hours and thirty minutes per week of writing support, two hours and thirty minutes per week of math support in the general education setting with a general educator or a "member of the special education team", thirty minutes per week of math intervention outside of the general education setting with a "member of the special education team", one hour and thirty minutes a week of behavior- emotional skills outside of the general education classroom with a special education teacher and thirty minutes a week of Occupational Therapy (OT) outside of the general education classroom with an Occupational Therapist.
3. The student's IEP, developed on March 24, 2022, also requires that the student receive instructional and testing accommodations to help address his challenges with attention and self-regulation including: allow use of manipulatives, reduced output in math, test response monitoring, and directions read aloud and repeated as needed.
4. On January 26, 2023, the complainants requested a "meeting of the student's IEP team." The school team replied via email and proposed an IEP team meeting to be held on February 22, 2023.
5. On February 7, 2023, the complainant received a "Parent Notification of IEP Team Meeting" from the school team inviting the complainants to an IEP meeting on February 22, 2023, to discuss "reevaluation planning, review and/or revise IEP, consideration of dismissal from special education services, and consideration of dismissal from related services."
6. On February 15, 2023, the complainant received an email from an IEP team member with a copy of the IEP dated March 24, 2022, progress report updates, Parental Rights Handbook, and Parent's Guide to Habilitative Services.
7. On February 22, 2023, the IEP team met at the request of the complainants to review the student's IEP and ensure his goals were appropriate. Due to the student's progress academically and socially, the IEP team decided to conduct an evaluation of the student to determine if he continued to be eligible under the IDEA. The team recommended that academic, occupational therapy, and psychological assessments be completed for the student, as well as a classroom observation. During

the meeting the complainants expressed concern regarding the student's math abilities and felt some of his goals "needed to be adjusted." The complainants shared the student needs support organizing and managing his assignments due to his deficits in executive functioning. The IEP team agreed to revise the student's math goals to "make it more appropriate for his present levels of achievement" but did not review the student's other annual goals at that time.

8. On April 26, 2023, the IEP team met to discuss the results of the completed assessments and determine eligibility. The complainant again stated her concerns related to the student's math skills, his difficulty completing his assignments on time, and not receiving the appropriate accommodations during testing. The complainants also stated that the student's writing rate was low. The math teacher shared that the student demonstrated the ability to complete his work accurately but often did not complete the assignments assigned to him independently. In addition, the teacher explained that the "student does not always accept the accommodations provided to him during testing." The teacher report, dated March 22, 2023, states that the "student receives a lot of check-ins during math" and that the student "prefers to draw in his journal rather than complete problems." The report further states that the student is frequently off task and requires adult support. It also notes that the student frequently requests bathroom breaks and trips to the nurse to avoid work.
9. During the meeting, some of the school-based IEP team members proposed that the student "does not present as a student with an educational disability" and can have his "ADHD needs met through a 504 plan." These team members additionally proposed that "the instructional and testing accommodations and the supplemental aids and services section of the IEP were representative of the accommodations that would be added to a 504 Plan for the student." The school-based team shared that the student's present levels of academic achievement do not warrant services through an IEP based on the teacher's report and the results of the triennial evaluations. The complainants disagreed with this proposal. The IEP team agreed to meet at another date to continue the discussion.
10. On May 10, 2023, the IEP team met to continue the discussion from the April 26, 2023, meeting. The complainants provided and read a written response of her disagreement with the proposal that the student was no longer eligible under the IDEA. The IEP team included her response in the prior written notice prepared following the meeting. The IEP team determined that the student qualifies for special education services pursuant to the IDEA based on the results of the assessments and reports from the student's teachers and parents.
11. The student's report card received on May 16, 2023, reflects "the student needs frequent reminders to take out his materials, and to follow along during instruction. He misses 15-20 minutes of class daily due to frequent bathroom breaks," mostly during independent work. "He needs multiple days to complete his work. He receives reminders daily to turn in work. The student has been given additional time to work on his work with the additional teacher."
12. On May 31, 2023, the IEP met to review and revise as appropriate the IEP that was developed following a review of assessments and determination that the student continues to qualify for specialized instruction. The IEP team agreed that the student needs support in school to ensure he completes his work to meet the class expectations and believes the student is capable of meeting grade-level standards. He needs to be "supported but also held accountable for completing his work."

13. On June 6, 2023, the IEP team met to continue the previous meeting held on May 31, 2023, to review/revise the student's IEP.
14. On June 13, 2023, the parent received copies of all finalized documentation of the student's IEP and eligibility process.
15. There is no documentation that the student was consistently provided with the instructional and testing accommodations and supplementary aids required by his IEP since the start of the 2022-2023 school year.

**CONCLUSIONS:**

**Allegation #1: DEVELOPMENT OF ANNUAL IEP**

Based on the Finding of Facts #1 to #14 MSDE finds the BCPS did not ensure that the IEP team convened to review the student's IEP before March 24, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. The annual review date was March 23, 2023, and the IEP team met prior to that date. However, during the meeting held on February 22, 2023, the IEP team revised the math goal and did not review and revise all IEP goals pursuant to 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

Notwithstanding this violation, based on Finding of Facts #12 to #14, MSDE finds that the student's IEP has been updated to match his current academic, behavioral, social, and developmental needs.

**Allegation #2: PROVISION OF INSTRUCTION AND ACCOMMODATIONS**

Based on Findings of Fact #15, MSDE finds the BCPS has not ensured that the student has been provided with the instructional and testing accommodations and supplementary aids and services required by the IEP, since the start of the 2022- 2023 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

**Allegation #3: PARENT PARTICIPATION**

Based on the Finding of Fact #5, MSDE finds the BCPS did ensure that the parent was afforded the opportunity to participate in the IEP team meeting on February 22, 2023, in accordance with 34 CFR §§300.501 and .322. Therefore, this 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 noncompliance is corrected in a timely manner.<sup>1</sup> 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

**Student specific:**

MSDE requires the BCPS to provide documentation by September 1, 2023, that the IEP team has convened and determined whether the violation related to the delay in developing IEP and **inconsistent** provision of receiving accommodations 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 parents are provided with written notice of the team's decisions. The parents maintain 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 August 31, 2023, of the steps it has taken to ensure that [REDACTED] staff properly implements the requirements for providing and documenting the provision students receiving the required accommodations on their IEP and convening timely annual review of student's IEPs. 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.

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<sup>1</sup> 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.

<sup>2</sup>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 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/sj

c: Darryl L. Williams  
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