




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

April 22, 2021




Dr. Kathy Pierandozzi  
Executive Director, Department of Special Education  
Baltimore County Public Schools  
Jefferson Building, 4th Floor  
105 W. Chesapeake Avenue  
Towson, Maryland 21204

RE:   
Reference: #21-062

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.


**ALLEGATION:**

On March 5, 2021, 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 allegation that the BCPS did not ensure that the student was provided with reading intervention as required by the Individualized Education Program (IEP) during Extended School Year (ESY) services, from July 6, 2020 to July 31, 2020, in accordance with 34 CFR §§300.101 and .323.

**BACKGROUND:**

The student is ten (10) years old, 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  School 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 during the summer of 2020 includes goals to improve reading comprehension and fluency and requires that special education instruction be provided to assist him with achieving those goals through the provision of research-based reading interventions.
2. The IEP states that the reading goals were to continue to be addressed through ESY services during the summer of 2020 but does not indicate whether those goals were to be addressed through the continuation of research-based interventions during the ESY program. It does, however, state that the student was to be provided with fifteen (15) hours per week of special education instruction to address the goals during ESY services.
3. The student's education record includes amendments to the IEP that reflect that the student was to be provided with thirty (30) minutes of special education instruction each day to address his reading comprehension goals and twenty (20) minutes of special education instruction each day to address this reading fluency goals throughout the duration of the ESY program. However, there is no documentation that the complainant agreed to the amendments and was provided with copies of those documents.
4. On March 4, 2021, the IEP team decided that the student does not require ESY services for the summer of 2021.

**CONCLUSION:**

In this case, the complainant alleges that the student was to be provided with a reading intervention during ESY services for fifteen (15) hours each week, but that he "only received thirty (30) minutes of instruction each day during ESY."

Based on the Findings of Facts #1 - #4, the MSDE finds that the IEP was not written clearly with respect to the amount and nature of ESY services to be provided during the summer of 2020. As a result, the BCPS could not ensure that those services were provided consistent with the IEP team's decisions, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred.

**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 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 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 Dr. Nancy Birenbaum, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Dr. Birenbaum can be reached at (410) 767-7770 or by email at Nancy.birenbaum@maryland.gov.

### **Student-Specific**

The MSDE requires the BCPS to provide documentation that the IEP team has determined the amount and nature of compensatory services or other remedy to redress the violation identified.

### **School-Based**

The MSDE requires the BCPS to provide documentation of the steps taken to ensure that the violation does not recur at [REDACTED] School.

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 BCPS and the complainant 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

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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, 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.

<sup>2</sup> 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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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:ac

c: Darryl Williams  
Jason Miller  
Charlene Harris  
■  
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