



September 29, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]

Dr. Courtney Hill  
Baltimore City Public School  
200 E. North Avenue, Room 204 B  
Baltimore, MD 21202

RE: [REDACTED]  
Reference: #23-020

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 August 2, 2022, the MSDE received a complaint from Ms. [REDACTED] “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public School (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 did not ensure that the Individualized Education Program (IEP) team convened to review the student’s IEP before the end of the school year of 2021- 2022 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’s IEP was reviewed and revised to address the lack of expected progress toward achieving the IEP goals since the start of the 2021- 2022 school year, in accordance with 34 CFR §300.324.
3. 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.

**BACKGROUND:**

The student is fourteen (14) years old and is identified as a student with a Specific Learning Disability under the IDEA. She attends [REDACTED] School and has an IEP that requires the provision of special education instruction.

**FINDINGS OF FACTS:**

**ALLEGATION #1:**

**ANNUAL REVIEW OF THE STUDENT'S IEP**

1. The student's IEP in effect at the start of the 2021-2022 school year was dated January 14, 2021.
2. On December 9, 2021, the IEP team met to review and revise, as appropriate, the student's IEP.
3. There is documentation that the IEP Chairperson, two Special Education Teachers, and a General Education Teacher were present at the IEP meeting. There is no documentation that the parent attended the meeting or that any attempts were made to invite the parent to the meeting.
4. There is no documentation of a Prior Written Notice (PWN) being generated following the December 9, 2021, IEP team meeting.
5. The BCPS acknowledges that a violation occurred with respect to the allegation. Specifically, the BCPS acknowledged "the lack of documentation that there were diligent efforts to involve the parent in IEP meetings, the parent was provided with documents prior to an IEP meeting being held, and the provision of the IEP and PWN after the IEP meetings during the 2021- 2022 school year."

**DISCUSSION/CONCLUSIONS:**

Based on the Findings of Facts #1 - #3, the MSDE finds that the BCPS did not ensure that the IEP team convened to review the student's IEP before January 14, 2022, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, this office finds a violation has occurred with respect to this allegation.

**ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

The BCPS is required to take steps to ensure a parent of a student with a disability is present or is afforded the opportunity to attend and participate in IEP team meetings, including notifying the parent of the meeting early enough to ensure that the parent will have an opportunity to attend and scheduling the meeting at a mutually convenient time and place. If the parent cannot attend an IEP team meeting, the BCPS must use other methods to ensure participation, including individual or conference telephone calls. There is no requirement that school systems contact the parent prior to scheduling IEP team meetings. Rather, school systems are required to provide the parent with notice of a meeting early enough so that the parent can arrange his or her schedule to attend (34 CFR §300.322).

To ensure parent participation, the BCPS must provide the parent with written notice at least ten (10) days in advance of the meeting. The notice must state the purpose, time, date, and location of the meeting, and who will attend. It must also state that the parent may invite other individuals to attend the meeting whom the parent deems to have knowledge or special expertise regarding the student's needs (COMAR 13A.05.01.07).

The BCPS must ensure the provision of a prior written notice each time the school proposes to take (or refuses to take) certain actions with respect to a child with a disability (34 CFR 300.503).

Based on Finding of Facts #3 and #5, the MSDE finds that the BCPS did not provide the parent with a written invitation to the December 9, 2021 IEP team meeting, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07D. Therefore, this office finds that a violation occurred.

Based on Findings of Fact # 3 and #5, the MSDE finds that the BCPS did not ensure that the Parent was afforded the opportunity to participate in the December 9, 2021, IEP team meeting, in accordance with 34 CFR §300.501. Therefore, this office finds that a violation occurred.

Based on Finding of Facts #4 and, #5, the MSDE finds that the BCPS did not provide Prior Written Notice of the IEP team's decisions from the IEP team meeting on December 9, 2021, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation occurred.

**ALLEGATION #2: LACK OF PROGRESS TOWARD IEP GOALS**

6. The reports of the student's progress dated November 3, 2021, January 25, 2022, March 31, 2022, and June 13, 2022, reflect that she was making sufficient progress to meet her math calculation goal. Specifically "with prompting and supports, the student is making progress with the goals and objectives." There is no documentation that the report of the student's progress towards achievement of the annual goals was measured as described in the IEP.
7. There is no documentation of the student's report of progress on her reading vocabulary, reading comprehension, or written language goals for November 3, 2021, January 25, 2022, March 31, 2022, and June 13, 2022.
8. There is no documentation that the parent was provided with quarterly IEP progress reports as required by the IEP.
9. The BCPS acknowledges that a violation occurred with respect to the report of the student's progress for the student's annual IEP goals during the 2021 -2022 school year. Specifically, "progress was not recorded on her reading comprehension, reading vocabulary, or written language goals for the entire 2021-2022 school year, goal progress was not measured in the manner indicated on the IEP, and there is a lack of documentation that the report of progress on IEP goals was provided to the parent at the intervals required by the IEP.

**DISCUSSION/CONCLUSIONS:**

Based on Findings of Facts #7 and #9, the MSDE finds that there were periods in which there were no reports available for the IEP team to review and that the IEP team was unable to address the student's progress, on November 3, 2021, January 25, 2022, March 31, 2022, and June 13, 2022, in accordance with 34 CFR §§300.101 and 324. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

**ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

The BCPS must ensure the provision of written information about the student's progress toward their IEP goals and that the written information is based on the data collection method required by the IEP (34 CFR §§300.101, .320, and .323).

Based on Findings of Fact #6 and #9, the MSDE finds that the BCPS did not ensure the provision of reports of the student's progress towards achievement of the annual IEP goals, based on the data collection method required by the IEP, on November 3, 2021, January 25, 2022, March 31, 2022, and June 13, 2022, in accordance with 34 CFR §§300.101 and 323. Therefore, this office finds that a violation occurred.

Based on the Findings of Fact #8 and #9, the MSDE finds that the BCPS did not ensure that the parent was provided with quarterly reports towards achieving the annual IEP goals since the start of the 2021- 2022 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred.

Notwithstanding the violations, the MSDE accepts BCPS' proposed plan to convene an IEP meeting to address the impact of the failure of the BCPS to appropriately report progress on the student's IEP goals and to provide training to the school staff regarding the reporting of IEP goal progress. Therefore, no further student-specific corrective action is required with respect to this aspect of the violations.

**ALLEGATION #3: EDUCATION PLACEMENT**

10. The student's IEP in effect at the start of the 2021 - 2022 school year requires that the student be provided with twenty-five (25) hours per week of specialized instruction outside of the general education setting. There is documentation that the student was provided with the special education instruction in the educational placement required by the IEP.

**DISCUSSION/CONCLUSION:**

Based on the Finding of Facts #10, the MSDE finds that the BCPS has ensured that the student has been provided with special education instruction in the special education classroom, as 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 does not find that a violation occurred 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, 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 Ms. Diane Eisenstadt, Compliance Specialist, Family Support and

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<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

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**

The MSDE requires the BCPS to provide documentation by November 30, 2022, of the following actions:

- a. That the IEP team has convened to determine whether the violations related to the failure to appropriately report progress on IEP 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 remedies 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. Provided documentation that the student's progress towards achievement of the IEP goals is being reported to the parent in the manner required by the IEP during the 2022-2023 school year.

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**

The MSDE requires the BCPS to provide documentation by November 30, 2022, of a plan that includes a timeline in which the BCPS must provide training to the school staff regarding:

- a. IEP goal progress reporting with periodic monitoring and parent reporting as stated on the IEP;
- b. Appropriate record keeping of student data to be used to efficiently provide appropriate IEP progress reports;
- c. The proper procedures of documenting and providing the required documents that are to be provided to the parent before and after IEP meetings; and
- d. Requirements for communication with families throughout the school year, including but not limited to invitations to IEP team meetings, status reports, progress reporting, attendance concerns, truancy, and other matters that require family involvement.

BCPS must provide the MSDE with monitoring reports from [REDACTED] School reporting on the following:

- a. Timely parental invitations to IEP team meetings;
- b. Parental participation in IEP team meetings;
- c. Timely implementation of five (5) day documents sent to parents prior to and following an IEP team meeting; and

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<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.

- d. Completion and dissemination of prior written notice to parents following an IEP meeting.

Monitoring reports must be submitted to the MSDE on or before December 15, 2022, March 15, 2023, and June 15, 2023. There must be fifteen (15) randomly selected special education students with IEPs in each sample monitoring report.

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

MF/sj

- c: Sonja Santelises  
Macon Tucker  
Denise Mabry  
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