



December 12, 2022

[REDACTED]
[REDACTED]
[REDACTED]

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: #23-063

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 October 13, 2022, the MSDE received a complaint from Ms. [REDACTED] 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 following allegations:

1. The BCPS did not ensure that the student was provided with the supplementary aids and services required by the Individualized Education Program (IEP) since October 13, 2021, in accordance with 34 CFR §§300.101 and 323. Specifically, the complainant alleges the following:
 - a. The student has not been provided with self advocacy and planning instruction¹;
 - b. The student has not been provided with class notes;
 - c. The student has not been provided with textbooks at home;
 - d. The student has not been provided with a syllabus; and
 - e. The student has not been provided with an agenda book.

¹ For purposes of this Letter of Finding, the IEP terminology will be used with regards to the student’s self-advocacy and self-management instruction.

2. The BCPS did not follow proper procedures to ensure that Home and Hospital Teaching (HHT) services were provided to the student since October 13, 2021, in accordance with 34 CFR §300.323 and COMAR 13A.05.01.10.
3. The BCPS did not implement the decisions made by the IEP team on January 13, 2022, May 25, 2022, and August 24, 2022, in accordance with 34 CFR §300.101.
4. The BCPS did not ensure that an accessible copy of the draft IEP, from the January 13, 2022, May 25, 2002, August 24, 2022, and October 3, 2022, IEP meetings were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.07.
5. The BCPS did not provide the parent with a copy of the IEP document within five business days after the IEP team meetings of January 13, 2022, May 25, 2002, and August 24, 2022, in accordance with COMAR 13A.05.01.07.
6. The BCPS did not provide proper written notice of the IEP team's decisions from the IEP team meetings held on January 13, 2022, May 25, 2022, and August 24, 2022, in accordance with 34 CFR §300.503.
7. The BCPS did not ensure that parental agreement was obtained prior to revising the student's HHT service hours after the May 25, 2022 IEP team meeting, in accordance with 34 CFR §300.324.
8. The BCPS has not developed and implemented an IEP that addressed the student's identified math needs since May 2022, in accordance with 34 CFR §§300.101 and .324.

BACKGROUND:

The student is seventeen (17) years old and is identified as a student with Multiple Disabilities under the IDEA. He is currently enrolled at [REDACTED] a Baltimore County Public High School. Since 2019, he has received HHT services. He has an IEP that requires the provision of specialized instruction.

ALLEGATION #1 and #2: PROVISION OF SELF-ADVOCACY AND SELF-MANAGEMENT INSTRUCTION, CLASS NOTES, TEXTBOOKS AT HOME, SYLLABUS, AGENDA BOOK, AND HHT SERVICES

FINDINGS OF FACTS:

1. The student's IEPs dated October 12, 2021, and January 13, 2022, developed during the time that the student was receiving HHT services, require that he receives HHT services for three thirty-minute sessions to address self-advocacy and self-management and four one hour and thirty-minute sessions of specialized instruction per week in "IPC, US History, Engineering Principles, and Pre-Calculus." Additionally, the IEPs require the provision of daily copies of in-class notes, as needed, home sets of textbooks/materials, as needed, and a course syllabus at the beginning of each new course.
2. On May 25, 2022, the IEP team met and revised the student's IEP to include an additional thirty-minute session each week of specialized instruction to be provided by the staff at [REDACTED] to "discuss goals, challenges, and social needs as described in the Supplementary Aids and Services."

3. On October 26, 2022, the IEP team met and updated the student's IEP to reflect his course schedule for HHT services. The IEP requires that each week the student receive four, one hour and thirty minutes sessions per week of HHT services in math and art.
4. There is documentation that the student was provided with some instruction in self advocacy and self-management, however, it does not reflect that the services were provided weekly at three thirty-minute sessions as required by the IEP since October 13, 2021.
5. There is documentation that the student was provided with specialized instruction to "discuss goals, challenges, and social needs as described in the Supplementary Aids and Services" provided by the staff at [REDACTED] from May 26, 2022, to October 6, 2022. There is documentation that the complainant declined this specialized instruction from October 7, 2022, through October 28, 2022.
6. There is documentation that the student was provided with weekly four hour and thirty minute sessions of HHT services in "IPC, US History, Engineering Principles, and Pre-Calculus" as required by the IEP from October 13, 2021, to June 16, 2022.
7. There is documentation that the student's HHT services for the 2022-2023 school year began on September 12, 2022. However, this documentation does not demonstrate that the student received weekly four hour and thirty-minute sessions of HHT services as required by the IEP.
8. There is no documentation that the student was provided with copies of class notes, a home set of textbooks/materials, and a course syllabus as required by the IEP since October 13, 2021.
9. There is documentation that the student's IEP does not require the provision of an agenda book since October 13, 2021.²

CONCLUSIONS:

ALLEGATION #1

Provision of Self-advocacy And Self-management Instruction

Based on the Findings of Facts #1 to #4, the MSDE finds that BCPS did not ensure that the student was consistently provided with HHT services to address self-advocacy and self-management as required by the IEP since October 13, 2021, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based on the Findings of Facts #2 and #5, the MSDE finds that BCPS did ensure that the student was consistently provided with specialized instruction to be provided by the staff at [REDACTED] to "discuss goals, challenges, and social needs as described in the Supplementary Aids and Services." as required by the IEP from May 26, 2022 to November 4, 2022, in accordance with 34 CFR §300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

² Though the IEP does not require the provision of an agenda book, there is documentation that the staff was utilizing a "planner" to support instruction with the student.

Provision of Class Notes, Textbooks at Home, Syllabus

Based on the Findings of Fact #8, the MSDE finds that BCPS did not ensure that the student was consistently provided with class notes, a home set of textbooks, and a course syllabus as required by the IEP since October 13, 2021, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Provision of an Agenda Book

Based upon Findings of Fact #9, the MSDE finds that the student's IEP did not require the provision of an agenda book. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

ALLEGATION #2

Provision of HHT Services

Based upon Findings of Fact #1 and #6, the MSDE finds that the BCPS has ensured that the student received HHT services in "IPC, US History, Engineering Principles, and Pre-Calculus" required by his IEP from October 13, 2021 to June 16, 2022, in accordance with 34 CFR §300.323 and COMAR 13A.05.01.10. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based upon Findings of Fact #1, #3, and #7, the MSDE finds that the BCPS has not ensured that the student received HHT services as required by his IEP since the start of the 2022-2023 school year, in accordance with 34 CFR §300.323 and COMAR 13A.05.01.10. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #3: IMPLEMENTATION OF IEP TEAM DECISIONS

FINDINGS OF FACTS:

10. On January 13, 2022, the IEP team met to review speech and language and occupational therapy assessments conducted for the student. The IEP Team Summary prepared by the IEP team following the IEP team meeting reflects that the team determined that the student did not qualify for occupational therapy or speech and language services. The student's IEPs developed following this meeting reflect that the student does not require speech and language and occupational therapy services.
11. On May 25, 2022, the IEP team met to review and revise the student's IEP, as appropriate. During the IEP team meeting, the IEP team rejected a proposal from the parent to include an IEP goal in the student's IEP related to task planning. The IEP team agreed to add an objective to the task planning goal and added an additional thirty minutes to the student's IEP. The student's IEP developed following this meeting reflects the team's decision.
12. On August 24, 2022, the IEP team met to review and revise the student's IEP, as appropriate. Following the review of the student's transcript, parent input, special educator input, and teacher input, the IEP team determined that the student would take "AP Stat or AP Calc" and receive instruction through "HHT and eLearning". The IEP team further agreed to coordinate the student's schedule with the community college, the BCPS eLearning center and HHT service providers. The

student's IEP developed following this meeting does not reflect the team's decisions.

CONCLUSIONS:

Based upon Findings of Facts #10 and #11, the MSDE finds that the BCPS ensured that the IEPs developed following the IEP team meetings on January 13 2022 and May 25, 2022, did include the IEP team's decisions, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation did not occur with respect to this aspect of the allegation.

Based upon Findings of Fact #12, the MSDE finds that the BCPS did not ensure that the IEP developed following the IEP team meeting on August 24, 2022, did not include the IEP team's decisions, in accordance with 34 CFR §300.101. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #4 PROVISION OF DRAFT IEP

FINDINGS OF FACTS:

13. There is documentation that a draft IEP was prepared by members of the IEP team and reviewed at the May 25, 2022, IEP team meeting.
14. There is no documentation that the complainant received a copy of the draft IEP at least five business days before the May 25, 2022 scheduled IEP team meeting.
15. There is no documentation that a draft IEP was prepared by members of the IEP team or reviewed at the January 13, 2022, August 24, 2022, and October 3, 2022, IEP team meetings.

CONCLUSIONS:

Based upon Findings of Facts #13 and #14, the MSDE finds that the BCPS did not ensure that an accessible copy of the draft IEP prepared in advance of the May 25, 2002, IEP team meeting was provided at least five business days prior to the meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to this aspect of the allegation.

Based upon Findings of Fact #15, the MSDE finds that the BCPS did ensure that an accessible copy of the draft IEP, from the January 13, 2022, August 24, 2022, and October 3, 2022, IEP meetings were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #5 PROVISION OF IEP DOCUMENTS

FINDINGS OF FACTS:

16. There is no documentation that the student's IEP was revised at the January 13, 2022 or August 24, 2022, IEP team meetings.
17. On May 25, 2022, the IEP team revised the student's IEP to reflect the decisions of the team. There is documentation that on June 1, 2022, the complainant was provided a copy of the completed IEP document.

CONCLUSION:

Based upon Findings of Facts #16, the MSDE finds that the BCPS was not required to provide the complainant with a copy of the completed IEP following the January 13, 2022 and August 24, 2022 IEP team meetings, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

Based on Finding of Fact #17, the MSDE finds that the BCPS provided the complainant with a copy of the IEP document within five business days following the IEP team meeting on May 25, 2002, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find that a violation occurred with respect to this aspect of the allegation.

ALLEGATION #6: PROVISION OF PRIOR WRITTEN NOTICE

FINDINGS OF FACTS:

18. There is documentation that on January 21, 2022, the complainant was provided proper written notice reflecting IEP team decisions made at the January 13 2022, IEP team meeting.
19. There is documentation that on June 3, 2022, the complainant was provided proper written notice reflecting IEP team decisions made at the May 25, 2022, IEP team meeting.
20. There is documentation that on August 31, 2022, the complainant was provided with proper written notice reflecting IEP team decisions made at the August 24, 2022, IEP team meeting.

CONCLUSION:

Based upon Finding of Facts #18 to #20, the MSDE finds that the BCPS has ensured that the complainant received written notice of the IEP team's decisions from the IEP team meetings held on January 13, 2022, May 25, 2022, and August 24, 2022, in accordance with 34 CFR §300.503. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #7: PARENT APPROVAL FOR IEP REVISIONS

FINDINGS OF FACT:

21. There is no documentation that the IEP team made a decision at the May 25, 2022 IEP team meeting, which required the parent's consent to implement.

CONCLUSION:

Based upon Finding of Fact #21, the MSDE finds that the BCPS was not required to ensure that parental agreement was obtained prior to implementing the IEP revisions made at the May 25, 2022 IEP team meeting, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #8: AN IEP THAT ADDRESSES THE STUDENT’S MATH NEEDS

FINDINGS OF FACTS:

22. The student’s IEP dated May 25 2022, identifies needs in the areas of “health/medical, self-management, academic: cognitive (Processing Speed), and behavioral.” The IEP reflects that the student performs “very high average” in math problem solving. The IEP requires in the special consideration and accommodations section that the student receive specific instructional and assessment accessibility features in all areas of instruction. The IEP team did not identify needs in the area of math.

CONCLUSION:

Based upon Finding of Facts #22, the MSDE finds that the BCPS has developed and implemented an IEP that addresses each of the student’s identified needs since May 2022, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation did not occur 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.

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.

Student Specific:

The MSDE requires the BCPS to provide documentation by January 16, 2023, of the following action:

- a. Provide documentation that the student is being provided with HHT Services, self-advocacy and self-management instruction, class notes, textbooks at home, syllabus, and agenda book as required by the IEP;
- b. Convene an IEP team meeting to revise the IEP as appropriate to ensure that it reflects the decisions of the IEP team.
- c. Convened an IEP team meeting and determined whether the violations identified in this Letter of Findings regarding provision of self-advocacy and self-management instruction, class notes, textbooks at home, syllabus, agenda book, and HHT services 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:

The MSDE requires the BCPS to provide documentation by March 1, 2023, of the steps it has taken to ensure that the staff at [REDACTED] properly implements the requirements for the provision of instructional services, supplementary aides and services, draft IEPs, and the IEP team decisions under the IDEA and COMAR. 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 March 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 related to the provision of instructional services, supplementary aides and services, draft IEPs, and the IEP team decisions 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

██████████
Ms. Allison Myers
December 12, 2022
Page 9

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: Darryl Williams
Jason Miller
Charlene Harris
██████████
Alison Barmat
Gerald Loiacono
Diane Eisenstadt
Tracy Givens