



Mohammed Choudhury
State Superintendent of Schools

September 8, 2023



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

RE: [REDACTED]
Reference: #23-268

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 June 26, 2023, the MSDE received a complaint from Ms. [REDACTED] hereafter, “the advocate,” on behalf of Ms. [REDACTED] hereafter, “the parent”. In that correspondence, the parent 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 follow proper procedures when responding to a request to access the student’s educational record prior to the March 10, 2023, Individualized Education Program (IEP) team meeting, in accordance with 34 CFR §§300.501 and .613.
2. The BCPS did not follow proper procedures when the IEP team determined the placement in which the student would receive special education instruction since June 2022, in accordance with 34 CFR §§300.114 and .116.
3. The BCPS did not ensure that the student participated with nondisabled children in nonacademic settings to the maximum extent appropriate to the needs of the child, since June 2022, in accordance with 34 CFR §300.117.

4. The BCPS has not ensured that the student has been consistently provided with the social/emotional/behavioral supports and services as required by the IEP since February 2023, in accordance with 34 CFR §§300.101 and .323.
5. The BCPS has not developed an IEP that addresses the student's identified academic, behavioral, social/emotional, occupational therapy, and speech/language needs since June 2022, in accordance with 34 CFR §300.324.
6. The BCPS did not ensure that the evaluation completed for the student assessed all areas of need, in accordance with 34 CFR §§300.303 - .306.
7. The BCPS did not follow proper procedures when excusing IEP team members from the June 26, 2023, IEP team meeting, in accordance with 34 CFR §300.321.

BACKGROUND:

The student is 13 years old and is identified as a student with Other Health Impairment under the IDEA. During the 2022-2023 school year, he attended [REDACTED] School in Baltimore County. Prior to the start of the 2023-2024 school year, the student moved to Baltimore City and enrolled in a school there. The student has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1: ACCESS TO STUDENT RECORDS

FINDINGS OF FACT:

1. On February 28, 2023, the parent informed the BCPS that she was working with the advocate and provided them with a signed consent form for the release of the student's information. On the same day, the advocate sent an email to BCPS staff, requesting the release of the student's education, discipline, and academic records dating back two years. In this email, the advocate expressed that the parent had asked for her assistance with the IEP process as her advocate and that the parent wanted her to participate in an IEP meeting. At that time, the meeting was scheduled for March 10, 2023.
2. On March 1, 2023, the IEP chairperson ("IEP Chair") from [REDACTED] School responded to the request and asked that the parent complete the BCPS consent form in order for the advocate to receive the documents, in addition to completing the form to allow for BCPS staff to communicate with the advocate. The email further states, "Once received, we have 45 days to provide the records. Only documents that will be discussed at the IEP meeting will need to be sent within 5 days of the meeting. The documents that will be reviewed have already been emailed to the parent." The advocate responded to this email on the same date, reiterating her request, stating that the information is needed "...in order to have a full analysis of the situation...[and to allow the] parent to meaningfully participate in [the] IEP meeting..."
3. On March 3, 2023, the IEP chair responded to the advocate in an email stating, "[She had] consulted with the office of law for BCPS. BCPS [Superintendent's Rule] 5230 allows 45 days to schedule an appointment to review the student record. [Maryland law] allows for at least five business days before a scheduled meeting to send a copy of all documents that will be discussed during the meeting (draft IEP, assessments, reports, data charts)." She ended the email by referring the

advocate to the BCPS special education attorney. The advocate responded on the same day by reiterating her request and did so again on March 7, 2023.

4. On March 8, 2023, the advocate sent another email to the IEP chair asking to receive the previously requested information, in addition to now having the IEP meeting facilitated "...because [of the] lack of collaboration."
5. On March 9, 2023, the IEP chair responded to the request by stating that the advocate should contact the BCPS special education attorney with any questions. The advocate responded on the same day requesting the documentation for the meeting, which was scheduled for the next day, in addition to a link allowing her to participate virtually. That evening, the parent emailed the IEP chair and principal requesting that the IEP meeting be rescheduled until the advocate receives the information that she requested.
6. On March 10, 2023, the advocate emailed her documentation request to the IEP chair again.
7. Throughout the remainder of the month of March 2023, the advocate, the parent, and the IEP chair communicated regarding the date the meeting would be held.
8. The meeting was rescheduled and held on May 11, 2023.
9. There is no documentation, to date, that the advocate was provided with access to the records requested on March 1, 2023.

CONCLUSION:

The parents of a child with a disability must be afforded an opportunity to participate in meetings and inspect and review all education records with respect to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child. (34 CFR §300.501) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, and in no case more than 45 days after the request has been made. The right to inspect and review education records under this section includes the right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records, and the right to have a representative of the parent inspect and review the records. (34 CFR §300.613)

In this case, the parent made a request for access to the student's record on March 1, 2023, and submitted all necessary forms to the BCPS which would allow her advocate to receive the requested documents prior to the IEP team meeting scheduled for March 10, 2023. There is no documentation that the BCPS has complied with this request.

Based on the Findings of Facts #1 to #9, MSDE finds the BCPS did not follow proper procedures when responding to a request to access the student's educational record prior to the March 10, 2023, Individualized Education Program (IEP) team meeting, in accordance with 34 CFR §§300.501 and .613. Therefore, this office finds that a violation did occur with respect to the allegation.

ALLEGATIONS #2, and #4 through 7

PLACEMENT DETERMINATION, PROVISION OF SOCIAL/EMOTIONAL/BEHAVIORAL SUPPORTS, AN IEP THAT ADDRESSES THE STUDENT'S NEEDS, EVALUATING ALL AREAS OF STUDENT NEED, and EXCUSING REQUIRED PARTICIPANTS FROM AN IEP MEETING

FINDINGS OF FACTS:

10. The Least Restrictive Environment (LRE) discussion in the student's prior IEP dated April 22, 2022, states, "... [The student] will receive services and specialized instruction/academic supports outside the general education setting. These services are best provided in a small group atmosphere with reduced distraction, and to provide time and appropriate environment to implement the services and supplementary aids that the team agreed are required for [the student's] educational progress. [The student] will also be removed from the general education setting for social work services to provide small group specialized and personalized supports that support his [social-emotional] progress. These services often require privacy and [a] trusting environment... [The student's] home school does not have the Regional Social Emotional Learning Program with the intense services in their building. [The student] will receive those more direct, intense services and supports at [REDACTED] School."

June 8, 2022, IEP

11. The IEP team met on June 8, 2022, to complete an annual review of the student's IEP. The IEP developed during the meeting states that the student would continue to receive instruction and services in the [REDACTED] School Regional Social Emotional Learning (SEL) program.
12. The eligibility data in the IEP states, "[The student's] ability to learn and apply communication, academic, social skills are impacted due to his diagnosis of Other Health impairment (ADHD). His assessments support deficits in these areas which impact daily living. [The student] qualifies for special education services under the category, Other Health Impairment, [the student] qualifies for direct services in academics, social skills, and speech, and language."
13. Despite the eligibility data stating that the student qualified for direct services in speech and language, the response to the question "Does the student have special communication needs" in the IEP is "No." At the time of the development of this IEP, the student's present levels of performance were:
 - o Behavioral: Social Interaction Skills: "In the area of Relationship Skills- Conflict Resolution/Communication, [the student] has needs in developing healthy ways to express his feelings. He may not grasp the need to understand the feelings of others; [the student] struggles to communicate using language consistency to express his feelings. He engages in conflicts and struggles to understand feelings associated with the interaction; [the student] needs support in how to manage frustration when interacting with peers and adults; He requires support in developing various techniques for managing disagreements with peers and improve how he demonstrates strong emotions; [the student] will often use inappropriate/foul language when interacting with others; [the student] needs to learn how to gain the attention of others in appropriate ways as well as how to seek out help when needed; He struggles with personal boundaries and will often touch others or their

belongings, which often leads to a negative peer exchange; He seems to struggle to understand how to get his needs met when interacting with others. [The student] will need to develop a better understanding of the possible outcomes/consequences of communicating his ideas and emotions appropriately. He still needs to learn the various techniques for improving communication including speaking and listening skills; [the student] struggles to fully understand how his behavior choices impact relationships with others.”

- Behavioral: Social/Emotional/Behavioral: “In the area of Social Awareness- Social Norms/Empathy toward others/Appropriate Levels of Interactions: [The student] is currently presenting with behaviors that demonstrate that he is not aware of the social norms and considerations that guide behaviors in school situations involving peer interactions and adult figures such as teachers. [The student] disregards the expectations of the school setting and attempts to get his needs met despite the rules. He seems to intentionally break known rules in such settings and will verbally oppose enforcement of these rules and expectations with verbal aggression, abusive language, foul language, and other disrespectful ways. [The student] becomes more defiant when staff attempt to enforce rules which results in refusing to remain in class, arguing, disrupting instruction, and interrupting his own learning. [The student] needs to better understand how people engage with each other. [The student] needs to learn from interactions with others in order to understand how to modify his behavior to meet his own needs and the needs of others. [The student]...continues to need to develop how to consciously consider the impact of his behavior on others and make effective behavioral choices. He currently struggles to recognize how his personal behavior helps or harms social relationships and interactions. [The student] currently has difficulty with non-compliance, by struggling to refrain from calling out during instruction, following simple directions/requests, making inappropriate comments, using foul language- that can become abusive, remaining in his seat, arguing with staff, challenging authority and classroom expectations; [the student] requires redirection to follow rules and often responds poorly by becoming argumentative; [the student] also does not manage well when his request is denied and will persevere about the issue, causing a disruption. [The student] will leave the assigned location without permission, sometimes roaming the room or leaving the classroom. [The student] struggles with accepting redirection for maintaining personal boundaries and will often invade the personal space of staff”.
- Math Calculation: “The student was given the Brigance assessment on June 2nd. On the calculations section he scored 75% on first-grade problems, 100% on second and third-grade problems, and 25% on fourth-grade problems. He often is out of his seat and has trouble following directions from adults. He consistently makes inappropriate comments to other students. He also tends to become defensive when his behavior is corrected. This has a direct impact on his learning”.
- Math Problem Solving: “The student was given the Brigance assessment on June 2nd. On the calculations section he scored 75% on first-grade problems, 100% on second and third-grade problems, and 25% on fourth-grade problems. He often is out of his seat and has trouble following directions from adults. He consistently makes inappropriate comments to other students. He also tends to become defensive when his behavior is corrected. This has a direct impact on his learning”.

- Reading Comprehension: “Level 3 text is at his instructional level. Level 4 text is at his frustration level”.
- Reading Phonic: “The student was given a beginning and advanced decoding survey on 6/6/22 to assess his decoding ability. Beginning: The student was able to decode 40/50 words accurately for 80% accuracy. Advanced: The student was able to decode 11/30 words accurately on this survey for 37% accuracy”.
- Written Language Expression: “When given a writing prompt, a graphic organizer of notes, a teacher example, guided prompts, and a list of sentence starters, the student was able to copy the sentence starters in 1/5 trials, write a topic sentence in 1/5 trials, and provide a relevant example in 1/5 trials. When given a list of sentence starters he used appropriate capitalization 1/5 times, when instructed to revise he was able to correctly capitalize $\frac{3}{5}$ sentences”.

14. The IEP team determined that the student would be provided with the following special considerations and accommodations:

- Audio Amplification
- Bookmark (Flag Items for Review)
- Blank Scratch Paper
- Eliminate Answer Choice
- General Administration Directions Clarified
- General Administration Direction Read Aloud and Repeated as Needed
- Highlight Tool
- Headphones or Noise Buffers
- Line Reader Mask Tool
- Magnification/Enlargement Device
- Notepad
- Pop-up Glossary
- Redirect Student
- Spell Check or External Spell Check Device
- Writing Tools
- Graphic Organizer
- Audio materials
- Text to speech for Mathematics
 - Text and Graphics
- Separate or alternate location
- Frequent breaks
- Reduce distractions to self
- Reduce distractions to others
- Calculation Device and mathematics tools (on Calculation Sections of Mathematics Assessments)
- Calculation Device and mathematics tools (on NON-calculation Sections of Mathematics Assessments)
- Extended Time 1.5x

15. The IEP team determined that the student would be provided with the following supplementary aids, services, program modifications, and supports:
 - Allow use of highlighters during instruction and assignments, Daily;
 - Allow use of organizational aids, Daily;
 - Use of word bank to reinforce vocabulary and/or when extended writing is required, Daily;
 - Check for understanding; Frequent and/or immediate feedback, Daily;
 - Provide Proofreading checklist, Daily, as needed;
 - Chunking of texts, Daily;
 - Altered/modified assignments, Daily;
 - Crisis intervention, Daily;
 - Strategies to initiate and sustain attention, Daily;
 - Social Skills training, Daily;
 - Provide frequent changes in activity or opportunities for movement, Daily;
 - Encourage student to ask for assistance when needed, Daily;
 - Use of positive/concrete reinforcers, Daily;
 - Home-school communication system, Daily;
 - Preferential seating, Daily; and
 - Adult Support, Daily – “The student requires adult assistance in order to participate in the general education setting for the school day. It is necessary to have an adult specifically assigned to the student. However, he does require additional adult supervision and supports during specials and all academic tasks and throughout all his instructional day/activities. He especially needs these supports in [non-structured] times (i.e., Lunch and class transitions).”

16. The student’s Behavior Intervention Plan (BIP), in place during the time period under investigation, was dated March 8, 2018. While it describes the student’s disruptive and non-compliant behavior, it does not include information related to responses to the behaviors and references the “Baltimore City [Functional Behavior Assessment] FBA” and “information not provided” in multiple areas. There is no documentation that the IEP team considered updates to the BIP at this time.

17. The IEP team determined that the student would receive instruction in the following settings:
 - Classroom Instruction Outside General Education - 60 hrs. monthly for reading, ELA, science, and world history.
 - Classroom Instruction Outside General Education- 7 hrs. 30 min. weekly for mathematics.
 - Classroom Instruction Outside General Education - 2 hrs. 30 min. weekly for lunch.
 - Classroom Instruction Outside General Education - 2 hrs. 30 min. weekly for homeroom.
 - Classroom Instruction Outside General Education – 1 hr. 30 min. weekly for social work services.

18. The IEP team determined that the student would have goals in areas of Behavior: Self-regulation-Compliance, Self-management- Social Interactions; and Academics - Math Problem Solving, Math Calculation, Reading Comprehension, Reading Phonics, and Written Language Expression.

19. During the IEP team meeting, the team determined that the student’s least restrictive environment was “Inside General Education less than 40%” (4 hours 0 minutes per week in General Education/28 hours 19 minutes per week Outside General Education). “[The student] attends a school with

additional specialized behavioral and clinical staff... [the student] will not participate with his non-disabled peers in homeroom, lunch, reading, ELA, science, world history, mathematics, skill development, and social work sessions. He will participate with his non-disabled peers in specials, non-academic, and extracurricular activities.”

20. The student was deemed eligible for ESY services due to significant interfering behaviors that would significantly jeopardize the benefits he receives from his educational program.
21. There is no documentation that the student had an adult “specifically assigned” to him at the start of the 2022-2023 school year, as required by his IEP.
22. Progress reports dated November 11, 2022, and January 17, 2023, indicate that the student did not make sufficient progress on his compliance goal and only made sufficient progress in social interactions during the second progress report. However, the student made sufficient progress on his academic goals for the first two progress reports.

November 21, 2022, IEP Meeting

23. The IEP team met on November 21, 2022, at the parent’s request. The prior written notice generated following that meeting reflects that the parent expressed concern regarding the student’s first-quarter grades and behavior. At that point in the school year, the student was passing three classes, failing three classes, and had a “D” in another. The student had also been referred for behavior intervention services seventy-three times equaling 1,821 minutes. The prior written notice states that “[the] primary reasons for intervention included: Aggression (peer) 3 x, Disruption (physical) 4 x, Disruption (physical) 11 x, Elopement (out of building) 1 x, Failure to Follow Directions 6 x, Inappropriate Language/Disrespect 3 x, Out of Area (in building) 11 x, *Peer Conflict 21 x, Proactive Visit 7 x, Threat (verbal) 3 x, and lunch detention in the step-down room 3 x. Totals Point Sheet Averages for [the] first quarter: Completed Work- 40%; Staff Interactions- 66%; Peer Interactions- 30%; Managed Frustrations- 43%; Assigned Seat- 19%; Personal Boundaries- 47%; Followed Rules- 14%; Overall Average- 37%...[The student’s family] stated that [the student needs] the support of school communicating with home in order to make the academic and behavior improvements [and] they really need the point sheets emailed to them each day, so they can address [the student’s] behavior.” The meeting ended with the student’s teachers sharing their academic and behavioral concerns about the student with the student’s family.
24. No changes were made to the student’s IEP or BIP at the November 21, 2022, IEP team meeting. The IEP team did not consider the need for an updated FBA during the meeting.

February 14, 2023, IEP

25. On February 14, 2023, the parent provided the BCPS with an application for Home and Hospital Teaching (HHT) services, due to the student’s emotional condition. On February 17, 2023, this application was approved. On February 22, 2023, the IEP team met “to review and revise the [student’s] IEP for Hospital and Homebound [HHT].” Members in attendance at that meeting were the IEP chair, a general educator from the school, the parent, the school social worker, a special educator, and another member of the BCPS staff.

26. The prior written notice from this meeting reflects that the IEP team recommended the following services for the student:
- “[The student] continues to demonstrate needs in the area(s) of social-emotional (self-regulation - compliance, and self-management -Social Interactions), so the team is proposing social work services.
 - [The student] continues to demonstrate needs in the areas(s) of reading comprehension, reading-phonics, written expression, mathematics - calculation, and mathematics - -problem-solving, so the team is recommending a special educator to provide specialized instruction in these areas as well as the grade level content while on HHT.
 - The IEP [Team] is recommending six hours per week to address the content as well as the specialized instruction for reading comprehension, reading-phonics, written expression, mathematics - -calculation, and mathematics -problem-solving.
 - The team proposed that the additional adult support be removed from the supplementary aids page of the IEP while the student is on HHT. The team did not feel that was necessary while on HHT [as the parent] would be home with [the student].”
 - The IEP Team decided that the student would continue to receive the instructional and testing accommodations, specialized instruction, supplementary aids, social work services, and crisis intervention as they were already provided by his IEP while receiving HHT services. They also decided that the HHT teacher would be provided with a copy of the student’s BIP “...so that he/she knows strategies to use while working with [the student].” The prior written notice states that the HHT services would be provided for sixty days.
27. The IEP Team determined that the student would receive the following instructional services:
- Classroom Instruction Outside General Education - 6 Hrs. weekly (2/22/2023 - 6/8/2023) “[The student] will receive six hours of instruction while on HHT. During that time [the student] will be provided with [grade-level] instruction as well as specialized instruction in the areas of reading comprehension: reading- phonics; written expression, mathematics - calculations, and mathematics - [problem-solving] in order to make progress on his goals and objectives in these areas. In addition, [the student] requires social-emotional supports while receiving his six hours of instruction on HHT.”
 - Classroom Instruction Outside General Education- 2 hrs. 30Min. Weekly (7/11/2022 - 8/5/2022) “[The student] will receive special education services outside the general education setting for ESY (5 thirty minutes per week). [The student] will also be provided additional academic and SEL activities outside of the general education setting for ESY.”
 - Classroom Instruction Outside General Education - 30Min. Weekly for social work services (6/8/2022 - 6/8/2023).
 - Classroom Instruction Outside General Education - 30Min. Weekly for social work services (7/11/2022 - 8/5/2022) “Related Services - Social Work Services: Service Delivery provided at the discretion of the School Social Worker for ESY (1 [session] of thirty minutes per week).”
28. The least restrictive environment placement determination was Inside General Education 80% or more (26 hours 0 minutes per week in General Education/6 hours 37 minutes per week Outside General Education). “[The student’s] home school does not have the Regional Social Emotional Learning Program with the intense services in their building. [The student] will receive those more direct, intense services and supports at [redacted] School...[the student] will not participate with

his non-disabled peers in homeroom, lunch, reading, ELA, science, world history, mathematics, skill development, and social work sessions. He will participate with his non-disabled peers in specials, non-academic, and extracurricular activities”.

29. There were no updates to the student’s present levels of academic achievement and functional performance, special considerations, or accommodations in the February 22, 2023, IEP.
30. The student was assigned an HHT teacher on March 9, 2023.
31. The progress report completed for the student on March 24, 2023, indicates that the student was not making sufficient progress on his academic goals during the third quarter of the 2022-2023 school year. Progress reports completed at this time did not report the student’s progress on his written expression or behavioral goals. The student’s overall behavior average for the first half of the third quarter (prior to beginning HHT services) was 43% compliance with behavioral expectations.
32. On May 8, 2023, the advocate sent an email to the IEP chair requesting “any additional data or information that has been collected since this student went on homebound instruction”. There is no documentation that the parent or advocate received a response to this request.

May 11, 2023, IEP Meeting

33. The IEP team convened on May 11, 2023, to conduct reevaluation planning for the student and to review or revise the student’s IEP, as appropriate. The meeting was attended by the IEP chair, a general educator from the school, a “Social Emotional Learning” teacher, the parent’s advocate, the parent, other family member of the student, a special educator, the school psychologist, and a facilitator. The student’s HHT teacher did not attend this meeting and did not provide input to the IEP team. The Team reviewed existing data in order to develop an IEP for [the student]. The Team recommended the following assessments in order to determine the present level of academic achievement and developmental needs: [A] Functional Behavior Assessment in order to update a Behavior Intervention Plan; a Psychological Assessment - to determine cognitive functioning and social-emotional learning functioning and executive functioning; an educational assessment to assess current levels in the areas of reading, mathematics, and written language.” According to the prior written notice, the student had only attended school for one day during the third quarter but was slated to return to school from HHT on May 16, 2023.
34. At this meeting the parent shared that she did not want her son to return to [REDACTED] School as he had been having “...suicidal ideation related to attending [the school], [she was also] not happy with some of the teaching staff and/or services he is receiving... [His HHT] services started late, [and he] is still owed hours.” The parent had previously shared her parental input with the team in an email on May 8, 2023, where she stated, among other things, that the student needs a classroom with more structure when he returns to school, that the student has not had a functional behavior assessment since March of 2018, very minimal updates have been made to his behavior plan to add support to prevent behavior, and the student has had failing grades since he started at [REDACTED] School. In response to the concerns the parent presented at the meeting, the IEP chair told the parent that in order to have the student remain on [HHT] until the end of the school year the student’s physician would need to complete the required forms again, and “... [HHT] will...determine the hours still owed to [the student] and provide them to him.” The advocate “...told the team that

[the parent] wanted a non-public placement, Baltimore Lab School for [the student] and that the team could make that placement decision today.” The IEP chair explained that “...the IEP drives the placement and the team needed to obtain additional data in order to develop an IEP for [the student], [and] this is why the team is requesting additional assessments to be completed. The team cannot pre-determine placement without writing and reviewing a draft IEP.”

35. “At the time of the meeting, a report from HHT was not available to review as to how [the student was] doing on HHT. [The advocate] shared that she had to leave, so the IEP meeting was stopped.”
36. On May 19, 2023, the student’s case manager reached out to the parent by email requesting to set up a testing session appointment for the student’s educational assessment “...at a public library of [the parent’s choosing]” if she was comfortable with that. There is no documentation that the parent responded to this request.
37. On May 23, 2023, the IEP chair sent an email to BCPS staff stating that she knows the student “...was owed some time...[and] he’s due for an annual and transition by June 8.” In this email, the IEP chair also stated that “...[she] will need the data for his quarterly to close out the IEP. [The parent]/advocate is requesting that [the] HHT Teacher [attend] the meeting. Is this possible or a representative from H&H? The team is scheduled for 8:30 on June 8, 2023.” There is no documentation of a response to this inquiry.
38. On this same date, the student’s case manager emailed the parent again stating that she had called twice and sent a previous email trying to schedule “...the formal education assessment for [the student] to update his IEP.” The case manager ended the email requesting the parent to send her dates and times that might work for her, as well as a location. There is no documentation that the parent responded to this request.
39. On May 25, 2023, the IEP chair sent an email to the parent with the prior written notice from the May 11, 2023, IEP meeting, along with the statement regarding the student’s performance from the HHT teacher. The statement did not provide any data on progress toward IEP goals or academic progress, but instead discussed the student’s behavior. The parent responded by stating that she “...already knew” and asked the school staff for a letter to give to the student’s doctor stating that her son needs more time in HHT. The IEP chair responded to the parent’s request by stating that she could not ask the student’s doctor to keep him on HHT because that was something that the physician would need to determine due to the student’s “[social-emotional status].”
40. On May 30, 2023, the IEP chair sent another email to BCPS staff stating that the parent had requested the HHT teacher attend the June 8th IEP meeting and asked if the teacher or a representative could attend the meeting. The IEP chair also made another request for the student’s quarterly progress report in order to close out the student’s IEP.
41. On June 1, 2023, the IEP chair sent the parent “paperwork” for the June 8th annual review IEP meeting, to which the parent responded by again requesting a letter regarding why the student needed more time in HHT services.

June 8, 2023, IEP Meeting

42. The IEP team held another meeting on June 8, 2023, to complete the student's annual review, discuss ESY, and develop a post-secondary transition plan for the student. This meeting was attended by a BCPS facilitator, a general educator from the school, the parent, the school social worker, a "Social Emotional Learning" teacher, the school's IEP chair, a resource teacher, another member of the student's family, the parent's advocate, and a special educator from the school. The advocate requested that the meeting be rescheduled due to the parents' request for the HHT teacher's attendance not being fulfilled, and their desire to have current data included in the student's IEP. The IEP chair shared that "the IEP was written based on the data that [REDACTED] School had on [the student] for the first two quarters [as the student] did not attend [the school] during the third quarter. There were several attempts made to get [the student's] current levels of functioning [and] the team attempted to conduct the educational assessments prior to this meeting." Additionally, BCPS staff stated, "the [teacher] had provided a statement on May 11, 2023, as to how [the student] was doing on [HHT and] she was not aware that the parent wanted the [HHT teacher] present." The parent stated that "...she was not bringing [the student] in for testing until she received the letter from [the IEP chair] for the doctor." The IEP chair "...shared that the doctor has to determine whether [the student] is ready to come back to school or if he continues to need [HHT]."
43. The prior written notice from this meeting states "The IEP team is proposing to review and revise the IEP as a part of the annual review process" as the description of the action(s) proposed or refused by the school system. Under "Explanation of why the school system proposed or refuses to take this action," "Description of any options the school district considered prior to this proposal," and "Reasons the above-listed options were rejected or adopted" it states "n/a." The team did not review the student's IEP. The team did not discuss ESY. The team did not develop a transition plan for the student. The students' services remained the same. The meeting was adjourned.
44. On June 11, 2023, the advocate emailed the IEP chair again requesting a letter regarding why the student needs more time in HHT services. On the same date, the advocate emailed the IEP chair attempting to "...reschedule the IEP meeting that [they] attempted to have on June 8th...again [requesting] on behalf of the parent that the person currently teaching [the student] for [HHT] instruction attend this meeting in its entirety [as had been previously requested] ..." The advocate also requested data collection sheets on all IEP goals since the start of [HHT] instruction, along with service logs that were requested prior to the June 8th IEP meeting but were not provided. The advocate also stated that "...there is case law that supports the parent request for the [HHT] instructor to be at the meeting." There is no documentation that the IEP chair responded to this email.
45. On June 13, 2023, the student's case manager again emailed the parent requesting to schedule the student's educational assessments for his re-evaluation. The parent responded to this email stating that she was "...only available June 26th after 10 am because we are trying to do [an] IEP meeting."

June 26, 2023, IEP

46. On June 26, 2023, the IEP team met to complete an annual review of the student's IEP. The IEP team was attended by a BCPS facilitator, a general educator from the school, the parent, the school social worker, an assistant principal from the school, a "Social Emotional Learning" teacher, a member of

the student's family, the parent's advocate, a member of the BCPS conflict resolution center, and a special educator from the school.

47. While the HHT teacher did not attend the IEP team meeting, the team considered input provided by the teacher. According to the prior written notice from the meeting, "The team conducted an annual review as part of the IEP process. [The parent] and [the advocate] requested that their disagreement with [the] review of the draft IEP, without the presence of [the IEP chair] and the [HHT teacher] be documented. Disagreement was documented and members of the [redacted] [redacted] team proceeded without the presence of [the parent] and [the advocate]..."
48. The prior written notice from this meeting provides the following information:
- a. "Q4 progress (6/13/23) was not available when this IEP was drafted for the 6/8/23 team. Q4 progress was added. The trend data was amended for Math Calculation, Reading Comprehension, and Written Language Expression to include data from 2020-2021 and 2021-2022. Details are recorded in section 6 under PLAAFP I.
 - b. Members of the [redacted] [redacted] team determined that [the student's] deficit in the area of emotional regulation affects his involvement in the general education setting. [The student's] Reading, Mathematics, and Writing skills are up to four grades below [grade-level standards]. Members of the [redacted] [redacted] team determined that small group instruction is required to provide [the student] access to the general education curriculum. During the first half of Quarter 3 (when [the student] was attending [redacted] [redacted] he was referred for behavior intervention 34 times; 4 times for aggression, 5 times for physical disruption, 4 times for failure to follow directions, 4 times for out of the area, 12 times for peer conflict, 3 times for proactive visit to step-down, one time for physical threat, and one lunch detention to step down. [The student] will participate with his non-disabled peers when receiving instruction in special area classes.
 - c. Members of the [redacted] [redacted] team considered placement options in the general education setting with natural supports, outside of general education for all instruction (including special area classes), and non-public setting and this was rejected.
 - d. The [HHT teacher] is a 10-month employee and is not required to work during the summer months. [The student's HHT] Achievement Profile, Quarter 4 progress report, and summary written by [the HHT teacher] [was] sent to [the parent and the advocate] via email on 6/16/23. The team possessed [the] information required to proceed with the review of the draft IEP.
 - e. Due to [the student's] documented needs...the team determined that [the student] requires a small group setting to provide access to the general education curriculum in his core academic classes. The team determined that [the student] requires opportunities to participate with his non-disabled peers to support the development of pro-social skills.
 - f. The IEP team agreed to a short break during the meeting. When the team resumed, the parent and the advocate were not present. The IEP team attempted to contact them, and

they declined to join the meeting, proposing instead that the IEP team reconvene with the [HHT teacher]. The IEP team continued with the meeting without the parent.

- g. The IEP team determined that the student qualifies for ESY due to regression of skills.
 - h. *Transition pages were discussed. Attempts to bring [the student] to [REDACTED] [REDACTED] for assessments were made on 5/18 /23 (phone call), 5/19/23 (phone call and email), 5/23/23 (email), and 6/13/23 (email). On 6/13/23, [the parent] responded to the special educator that the only time that she is available is on 6/26/23. Transition is blank in the IEP and the team will attempt to [coordinate] to obtain transition information. The IEP will be finalized.”
49. The student’s present levels of performance on the June 26, 2023, IEP are as follows:
- o Behavioral: Social/Emotional/Behavioral - Level of Performance: “[The student] is performing below grade level expectations in Social/Emotional/Behavioral areas at the early to late elementary level...May 2023: ... [The student] attended 117 out of 171 possible days so far this year... In the third quarter, he earned 2 Ds and 4 Es. When engaged he makes thoughtful and positive contributions to class discussions. He appears to have made friends with classmates and connections with staff members but has also participated in ongoing conflicts with several peers. He has at times been dysregulated leading to defiant behavior and verbal and physical aggression. Once calm he can reflect on his actions and share alternatives he could choose in the future. [The student] was not demonstrating progress towards meeting his goals as reflected in observations and teacher reports as of his last day of attendance at [REDACTED] [REDACTED]. He was most challenged with following directions and using respectful language. [The student] would benefit from continued support for his social-emotional-behavioral growth. [HHT TEACHER] Observation 5-11-23: [The student] is participating and attending class as required. He completes his tasks but gets distracted easily and needs redirection at times. [The student] gets frustrated when he gets a problem wrong or does not understand something and this makes him want to shut down. When this happens, I attempt to explain it to him in another way that he might better comprehend. When he finally gets the answer that we are looking for he is motivated to do more and is in a great mood. When [The student] is focused and motivated to learn without any distractions or triggers around him, he remains on the task and does good work. During the third quarter of learning while attending classes at [REDACTED] [REDACTED] School’s regional SEL program, [the student] was referred for behavior intervention: thirty-four times for 1,031 minutes. Primary reasons for referral included: Aggression 4 x, Disruption (physical) 5 x, Failure to Follow Directions 4 x, Out of Area (in building) 4 x, Peer Conflict 12 x, Proactive Visit to step-down 3 x, Threat (physical) 1 x and lunch detention in step-down 1 x. This is a reduction from 1247 minutes in quarter two but only covers half of the quarter when he was present so his minutes out of class increased as a percentage of time. Measurement of progress: Q3 Overall average = 44%.”
 - o Math Calculation – “Current Instructional Grade Level Performance: third grade. [HHT] Q4 progress - (6/13/2023) [The student] was able to calculate each problem by choosing the appropriate operation and solving with the use of the correct algorithm or strategy with 80% accuracy in two out of three target trials.”

- Math Problem Solving – “Current Instructional Grade Level Performance: first grade. [HHT] Quarter 4 progress report - (6/13/2023) When given (5) word problems with up to 2-steps, using addition, subtraction, multiplication, and division, involving whole numbers, a problem-solving checklist, a multiplication chart, and a calculator for checking his answer, [the student] solved the problem with 60% accuracy (4 out of 5) problems, in 2 out of 3 trials.”
 - Reading Comprehension – “Current Instructional Grade Level Performance: 3.0. [HHT] Quarter 4 progress report - (6/13/2023) [The student] used guided questions to determine the central idea from a list, select (2) details that support it, and explain how the details support the idea using sentence starters in a graphic organizer, scoring (4 out of 5 points for the idea, details, and explanation) for 1/2 texts.”
 - Reading Phonics – “Current Instructional Grade Level Performance: Below Grade Level. [HHT] Quarter 4 progress report - (6/13/2023) [The student] read the passages aloud and correctly decode the selected words with (80)% accuracy (i.e., 12/15 words) for [the] two-thirds-word lists Method.”
 - Written Language Expression – “Current Instructional Grade Level Performance: 3rd. [HHT] Quarter 4 progress report (6/13/23) [The student] was able to write a 3-sentence response, with a topic sentence, 1 relevant detail, and one relevant explanation, and with only 4 errors in written mechanics (spelling, punctuation, capitalization) with 60% accuracy in 2 out of 3 trials.”
50. The June 26, 2023, IEP includes new goals in the areas of Behavior: Self-Regulation, Social Interactions, Compliance, and decision-making; Academic - Math problem-solving, Math Calculation (x2), Reading Comprehension, Reading Phonics, and Written Language Expression. It also includes the same special considerations and accommodations as the February 22, 2023, IEP. With the exception of the removal of “Provide proofread checklist daily,” the supplementary aids, services, program modifications, and supports in the June 26, 2023, IEP remained the same as the February 22, 2023, IEP.
51. The IEP Team determined that the student would receive the following services in his June 26, 2023, IEP:
- Classroom Instruction Outside General Education- 7 Hrs. 30 Min. weekly (6/26/2023 - 6/26/2024) “On an A Day/B-day schedule [the student] will receive instruction in Math, Reading, ELA, Science, Social Studies, Skills [Development] in the outside of general education setting.
 - [The student] requires 20 5-minute sessions weekly to address his Self-Regulation goal.
 - [The student] requires 20 5-minute sessions weekly to address his Social Interactions goal.
 - [The student] requires 20 5-minute sessions weekly to address his Compliance and [Decision-Making] goal.
 - [The student] requires two 30-minute sessions weekly to address his Math Problem Solving goal.

- [The student] requires two 40-minute sessions weekly to address Math Calculation goals.
 - [The student] requires two 30-minute sessions weekly to address the Reading Comprehension goal.
 - [The student] requires two 20-minute sessions weekly to address the Phonics goal.
 - [The student] requires two 30-minute sessions weekly to address the Written Expression goal.”
- Classroom Instruction Outside General Education- 5 hrs. 20 Min. Weekly (7/10/2023 - 8/4/2023) ESY
 - “[The student] requires one 30-minute session daily to address his Math Calculation goals.
 - [The student] requires one 20-minute session daily to address his Phonics goal.
 - [The student] requires one 30-minute session daily to address his Self-Regulation goal.”
52. The IEP team determined that the student required a less restrictive placement including “Inside General Education 40%-79% or more (25 hours 45 minutes in General Education/8 hours 0 minutes per week Outside General Education).” “[The student] attends a school with additional specialized behavioral and clinical staff. [The student] will not participate with his non-disabled peers when receiving instruction in Math, Reading, ELS, Science, Social Studies, Skills Development and when receiving Social Work Services.”
53. The IEP team did not address the student’s secondary transition plan in the June 26, 2023, IEP.
54. There is no documentation that the student received social work services while on HHT.
55. The documentation of services provided to this student while on HHT, dated June 5, 2023, states: “[The student] is successful with clear and concrete directions. The teacher uses a variety of audio/visual materials to introduce, reinforce, and explore topics. The teacher uses cues, prompts, and questions to activate prior knowledge and to assist [the student] to formulate written pieces. [The student] is able to work 50-60 minutes and then benefits from a [5-minute] break. Teacher also uses the following strategies as needed: modeling, graphic organizers, repeated practice, summarizing, identifying similarities and differences. Real-life examples.”

DISCUSSIONS/CONCLUSIONS:

Allegation #2: Placement Determination

Each public agency must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (34 CFR §300.114) However, in determining the educational placement of a child with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons

knowledgeable about the child, the meaning of the evaluation data, and the placement options; and the child's placement is determined at least annually; is based on the child's IEP; and is as close as possible to the child's home. In selecting the LRE, consideration must be given to any potential harmful effect on the child or the quality of services he or she needs. (34 CFR §300.116)

In April 2022, the IEP team determined that based on the severity of the student's disability and his social-emotional needs, the student's least restrictive environment would be the Regional Social-Emotional Learning Program at ██████████ School. From June 2022 to June 2023 the student did not make progress on many of his goals and failed many of his classes. Before the end of the 2022-2023 school year, he was placed on HHT instruction, during which time, the BCPS had difficulty measuring his progress towards achievement of his IEP goals. During the June 26, 2023, meeting, without input from the parent or advocate, the team decided that the student's placement for the 2023-2024 school year should be changed from the RSEL program where the student was inside the general education classroom less than 40% of the time prior to being on HHT services, to being placed inside general education 40-79% of the time without adult support. There is no data provided that would support such a determination.

Based on the Findings of Facts #10-11, #13-#15 #17-#19, #22- #23, #27, #30-#34, #41-#43, and #45-#51, MSDE finds that the BCPS did not follow proper procedures when the IEP team determined the placement in which the student would receive special education instruction since June 2022, in accordance with 34 CFR §§300.114 and .116. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #4: Provision of Social/Emotional/Behavioral Supports

At the beginning of the 2022-2023 school year, the student's IEP daily crisis intervention, strategies to initiate and sustain attention, social skills training, frequent changes in activity or opportunities for movement, encouragement to ask for assistance when needed, the use of positive/concrete reinforcers, home-school communication, and adult support specifically assigned to him. There is no documentation that the student received any of these supports, and the parent made a specific request for consistent home-school communication. During HHT, the student was to receive all of these supports, with the exception of adult support. However, there is no documentation that the student received social work services during HHT, nor is there evidence of home-school communication.

Based on the Finding of Facts #25-#27, #29, #31-36, #42-#44, #48-#50, and #53, MSDE finds that the BCPS has not ensured that the student has been consistently provided with the social/emotional/behavioral supports and services as required by the IEP since February 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #5: Developing an IEP that Addresses the Student's Needs

In developing each child's IEP, the IEP Team must consider the strengths of the child; the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. In the case of a student whose behavior impedes the student's learning or that of others, the team must consider the use of positive behavioral interventions and supports and other strategies, to address that behavior. (34 CFR § 300.324)

At the June 26, 2023, IEP meeting, the team determined that the student was up to four grades below grade-level standards in the areas of Reading, Mathematics, and Writing. The team also determined that the student

required a small group setting to access the general education curriculum in his core academic classes but needed opportunities to participate with his non-disabled peers to support the development of pro-social skills. However, the team developed an IEP that does not support the student academically, socially, or behaviorally. There is also no secondary transition plan in place for this student in his current IEP.

When this student transferred to ██████████ ██████████ School, his IEP stated that “he requires very close monitoring and constant individual attention.” As such, his initial IEP at ██████████ ██████████ School required that the student have “an adult specifically assigned to him” and “adult assistance in order to participate inside the general education setting for the school day.” The student’s IEP was updated in June 2022. At that time, during the fourth quarter of school, the student had received behavior intervention services sixty-seven times totaling 2,414 minutes and was struggling with managing his impulsive and disruptive behaviors. The team did not choose to update the student’s BIP but maintained the current behavioral supports in the IEP, inclusive of adult support, although there is no documentation demonstrating that the student in fact had an adult specifically assigned to him.

The BIP that the team chose to utilize was based on a Functional Behavior Assessment that was completed in March 2018. The behaviors that it addressed did not include those that the student had been manifesting at ██████████ ██████████ School, such as aggression, eloping from the building, and negative peer interactions. Not only did the BIP not address these behaviors, but it also did not provide strategies to address the contributing factors of the behavior, positive strategies to reinforce appropriate replacement behaviors, consequence strategies for problem behavior, staff development, who will respond to the student’s inappropriate behavior, how the student will transition back to class, or who will be notified of the behavior.

When the team met in November 2022, it was at the parent's request due to the student’s poor academic and behavioral performance. Despite these concerns, the team still did not decide to update the student’s FBA/BIP, or otherwise revise his IEP to address his behaviors.

Finally, in June 2023, the team updated the student’s behavioral goals but maintained the same social/behavioral supports that had been in place since the student began attending ██████████ ██████████ School and had been unsuccessful. The only support that was not reinstated was adult support. The team has developed an IEP for this student that requires him to be in general education for most of the school day, without any new social/emotional/behavioral supports in place, and without any adult support throughout the school day.

Furthermore, despite repeated requests from the student’s parent and advocate, the BCPS did not ensure that the IEP team considered information regarding the student’s performance during HHT and did not develop appropriate progress reports for the student during that time.

Based on the Finding of Facts #10-#16, #21-#24, #29, #31, #33-#35, #41-#42, and #47-#53, MSDE finds that the BCPS has not developed an IEP that addresses the student’s identified academic, behavioral, social/emotional, occupational therapy, and speech/language needs since June 2022, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #6: Evaluating Each Area of Student Need

A public agency must ensure that a reevaluation of each child with a disability is conducted if the child's parent or teacher requests a reevaluation. A reevaluation must occur at least once every 3 years unless the

parent and the public agency agree that a reevaluation is unnecessary. (34 CFR § 300.303) The public agency must also ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. (34 CFR § 300.304) However, there is an exception to the timeline for completion of initial evaluations if the parent of the student repeatedly fails or refuses to produce the student for assessments. (COMAR 13a.05.01.06.)

In this case, the student was last evaluated on December 1, 2017. On May 11, 2023, the IEP team determined that a reevaluation of the student was necessary. The IEP team proposed assessments in the areas of reading, mathematics, and written language, as well as functional behavior and psychological assessments. However, despite the parent's proposals, the team did not consider collecting formal data in the areas of occupational therapy, assistive technology, or speech/language. Although the student did not have a history of, or demonstrate a present need or deficit in the areas of occupational therapy and assistive technology, due to the student's documented deficit in the area of speech/language, the team should have considered assessing the student in this area.

Based on the Finding of Facts #12, #13-#14, #23, #26, #33, #42, and #48-#49 MSDE finds that the BCPS did not consider evaluating the student in additional identified areas of need, in accordance with 34 CFR §§300.303 - .306 Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #7: Required IEP Team Participants

The public agency must ensure that the IEP Team for each child with a disability includes the parents of the child; not less than one regular education teacher of the child; not less than one special education teacher of the child; a representative of the public agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; is knowledgeable about the general education curriculum; and is knowledgeable about the availability of resources of the public agency. Additionally, the team must include an individual who can interpret the instructional implications of evaluation results, and at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate. (34 CFR § 300.321)

A member of the IEP Team is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. A member of the IEP Team may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the public agency consent to the excusal; and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting. (34 CFR § 300.321)

On February 22, 2023, May 11, 2023, June 8, 2023, and June 26, 2023, the BCPS convened IEP teams that included all participants required by the IDEA. Therefore, the BCPS was not required to seek the parent's excusal for these team members.

Based on the Findings of Facts #25, #32, #41, and #45, MSDE finds that the BCPS followed proper procedures when convening an IEP team meeting on June 26, 2023, in accordance with 34 CFR §300.321. Therefore, this office finds that a violation has not occurred with respect to this allegation.

**ALLEGATION #3 PARTICIPATION WITH NONDISABLED CHILDREN TO THE
MAXIMUM EXTENT APPROPRIATE**

FINDINGS OF FACT:

56. The student’s IEPs in effect during the time period under investigation requires that he participate with nondisabled peers during lunch and specials.

57. The student’s schedules during the 2022-2023 school year reflects that the student had “specials classes” during the 2022-2023 school year, however, there is no documentation that reflects when the student participates with his non-disabled peers during the school day.

CONCLUSION:

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, and recess periods, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child’s IEP Team to be appropriate and necessary for the child to participate in a non-academic setting. (34 CFR§ 300.117)

Although the severity of the student’s disabilities required him to receive intensive academic supports and services in a small group setting throughout the day for homeroom, lunch, and all core content classes, the student’s schedule reflects that he did have specials classes during which his IEP states that he should participate with his nondisabled peers. However, there is no documentation that shows that these specials classes were inclusive.

Based on the Finding of Facts #56 and #57, MSDE finds that the BCPS did not ensure that the student participated with nondisabled children in nonacademic settings to the maximum extent appropriate to the needs of the child, since June 2022, in accordance with 34 CFR §300.117. Therefore, this office finds that a violation did 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, 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.¹ This office will

¹ 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

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.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

MSDE requires that the BCPS provide documentation by November 30, 2023 that it was coordinated an IEP team meeting with Baltimore City Public Schools to determine the amount of compensatory services or other remedy that will be provided to the student to make up for the services missed due to the late start of HHT services, the missed social work services that should have been provided to the student during the entirety of his HHT placement, and the services and supports not provided to him during the 2022-2023 school year. At the time of this meeting, the team must develop an appropriate IEP for this student that considers all of his current academic, social-emotional/behavioral, speech/language, assistive technology and occupational therapy needs, and the appropriate least restrictive environment. The team should also ensure that assessments already recommended for the student are completed and consider the need for speech/language, occupational therapy, assistive technology, and functional behavior assessments.

School Based:


By January 1, 2024, the Special Education Team at [REDACTED] School must receive professional development and training on the proper procedures required to determine placement for a student, the proper procedures required to conduct IEP meetings, the proper way to write a prior written notice, and conflict resolution on how to deal with difficult situations with parents. Any and all materials used to present these trainings should be submitted to MSDE no later than 10 days after each training, in addition to attendance and participation sheets that staff should sign off on to demonstrate the receipt of these trainings. These trainings should occur at the beginning of each school semester until the end of the 2024-2025 school year.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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

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.

² MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.


Ms. Allison Myers
September 8, 2023
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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

DC/ebh

c: Myriam Yarbrough
Charlene Harris
Jason Miller
Norma Villanueva
Conya Bailey

Gerald Loiacono
Nicol Elliott
Paige Bradford
Diane Eisenstadt
Elizabeth B. Hendricks