



December 21, 2023



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

RE: [REDACTED]
Reference: #24-060

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 27, 2023, MSDE received a complaint from Mr. [REDACTED] and Mrs. [REDACTED] hereafter, “the complainants,” on behalf of their son, the above-referenced student. In that correspondence, the complainants alleged that the Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The BCPS has not ensured that the student was provided with the occupational therapy (OT) and speech/language services as required by the Individualized Education Program (IEP) since October 2022, in accordance with 34 CFR §§ 300.101 and .323.
2. The BCPS has not developed an IEP that addressed the student’s identified speech needs since October 27, 2022, in accordance with 34 CFR §§300.101 and .324.

BACKGROUND:

The student is nine years old and is identified as a student with autism under the IDEA. He attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATION #1 and #2:

**PROVISION OF OCCUPATIONAL THERAPY AND
SPEECH/LANGUAGE SERVICES AND DEVELOPED AN IEP THAT
ADDRESSES THE STUDENT'S IDENTIFIED SPEECH NEEDS**

FINDINGS OF FACTS:

1. The student's IEP developed on March 10, 2022, reflects that the student's primary disability is autism with the areas of social/emotional/behavior, visual motor, communication, academics as areas that the student has deficits.
2. The student's IEP developed on March 10, 2022, reflects the Present Levels of Academic and Functional Performance for communication as age appropriate. It further reflects that the student's receptive language is an area of need and is addressed through the IEP goals.
3. The student's IEP developed on March 10, 2022, requires the student to be provided with a goal in the area of receptive language: "given a short passage, the student will sequence the story in 3-5 steps (e.g., beginning, middle, end) in 4/5 trials, 80% accuracy, given 1-2 verbal cues, in complete sentences."
4. The student's IEP developed on March 10, 2022, requires that the student be provided with one, thirty minute weekly occupational therapy session provided by the Occupational Therapist or the Occupational Therapist Assistant. These sessions are to take place outside the general education classroom. The IEP further requires the student to be provided with one, thirty minute weekly speech/language session provided by the speech/language pathologist, to take place outside the general education classroom. The prior written notice (PWN) generated following this meeting reflects agreement with the decisions made regarding these services.
5. On September 15, 2022, the IEP team met to conduct re-evaluation planning. The team recommended educational, speech and language, psychological, and occupational therapy assessments be completed, as well as a formal classroom observation. The complainant provided consent for BCPS to complete these assessments.
6. The IEP Team Summary generated after this IEP team meeting reflects that the student had achieved his speech goal.
7. The Speech/Language Assessment that was written on November 11, 2022, reflects that the "formal and informal assessments revealed that the student's speech and language skills are on average compared to peers his age."
8. There is no documentation that the student received speech/language services as required by the student's IEP from March 10, 2022, to November 7, 2022.
9. On December 8, 2022, the IEP team met with the purpose of reviewing assessments and determining eligibility. The Prior Written Notice generated after this IEP team meeting, reflects that the speech/language pathologist was invited to participate but was unable to attend.

10. The student's IEP developed on December 8, 2022, reflects that the student's primary disability is autism with the areas of visual motor and reading phonics affected. The IEP further reflects that the student's communication and fine motor skills were reevaluated as part of the IEP eligibility process. The IEP reflects that the student had deficits with fine motor skills.
11. The student's IEP developed on December 8, 2022, requires that the student be provided with two, thirty minute monthly occupational therapy sessions provided by the Occupational Therapist or the Occupational Therapist Assistant. These sessions are to take place outside the general education classroom. This IEP does not require the student to be provided with speech/language services.
12. On October 26, 2023, the IEP team met with the purpose of reviewing and revising the student's IEP. The Prior Written Notice generated after this IEP team meeting reflects that the IEP team suggested a speech assessment to "gain a full understanding of the student's articulation and pragmatic language." The team also recommended assessment in reading comprehension. On October 30, 2023, the complainant provided consent for these assessments to be conducted.
13. The student's IEP developed on October 26, 2023, reflects that the student's primary disability is autism with the areas of reading phonics, visual motor, and social interaction skills affected.
14. The student's IEP developed on October 26, 2023, requires that the student be provided with two, thirty minute monthly Occupational Therapy sessions provided by the Occupational Therapist or the Occupational Therapist Assistant. These sessions are to take place outside the general education classroom. This IEP does not require the student to be provided with speech/language services.
15. There is documentation that the student received occupational therapy as required by the student's IEP on October 31, 2022; November 7, 2022; November 14, 2022; November 28, 2022; December 5, 2022; December 8, 2022; December 16, 2022; December 19, 2022; January 9, 2023; January 30, 2023; February 6, 2023; February 27, 2023; March 13, 2023; March 27, 2023; April 17, 2023; May 8, 2023; June 12, 2023; September 11, 2023; October 2, 2023; and October 9, 2023.

CONCLUSIONS:

Allegation #1: Provision Of Occupational Therapy

October 2022

The student's March 10, 2022, IEP required OT services once weekly for 30 minutes each session. Based on Findings of Facts #5 and #15, the BCPS has ensured that the student was provided with the occupational therapy services as required by the IEP in October 2022, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred with respect to this aspect of Allegation #1.

November 2022- March 2023

Based on Findings of Facts #5, #11, and #15, the BCPS has ensured that the student was provided with the occupational therapy services as required by the IEP during the time period from November 2022 - March 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred with respect to this aspect of Allegation #1.

April 2023- September 2023

Based on Findings of Facts #11, and #15, the BCPS has not ensured that the student was provided with the occupational therapy services as required by the IEP from April 2023 through September 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds a violation occurred with respect to this aspect of allegation #1.

October 2023

Based on Findings of Facts #11, #14 and #15, the BCPS has ensured that the student was provided with the occupational therapy services as required by the IEP in October 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred with respect to this aspect of Allegation #1.

Allegation #1: Provision Of Speech/Language Services

October 2022- December 7, 2022

There is no documentation that the student received the services required by his IEP prior to his dismissal from services. Based on Findings of Facts #5, #8, and #9, the BCPS has not ensured that the student was provided with the speech/language services as required by the IEP from October 2022 through December 2022, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds a violation occurred with respect to this aspect of Allegation #1.

December 8, 2022- October 2023

Based on Findings of Fact #11, the BCPS has ensured that the student was provided with the speech/language services as required by the IEP from December 8, 2022, through October 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred with respect to this aspect of Allegation #1.

Allegation #2: Developed An IEP That Addresses the Student's Identified Speech Needs

On December 8, 2022, the IEP team met to review assessments, including the speech/language assessment. Despite not having an individual participating in the meeting who was "qualified to interpret the instructional implication of evaluation results" from the speech/language assessment (34 CFR 300.321(a)(5)), the team determined that the student no longer required speech/language services. However, in October 2023, the IEP team determined that additional information was required to determine the student's speech/language needs and ordered a new speech/language assessment focused on articulation and pragmatic language.

Based on Findings of Facts #9 and #12, the BCPS has not developed an IEP that addressed the student's identified speech needs since December 8, 2022, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds a violation occurred 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 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 the IEP team to complete the pragmatic and articulation assessment ordered in October 2023 to determine the student's speech/language needs. The IEP team must convene and determine whether the violations related to the lack of the proper amount of occupational therapy during April 2023 - September 2023, the lack of speech/language services during March 2022 - December 2022, and the lack of an individual who could interpret the results and instructional implications of the speech assessment at the December 2022 IEP team meeting 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 violations and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

School Based

MSDE requires the BCPS to provide documentation by February 1, 2024, of the steps taken to ensure that the violations regarding the lack of the proper amount of occupational therapy during April 2023 - September 2023, and the lack of appropriate staff at IEP team meetings do not recur at [REDACTED] School.

Those steps must include staff development, in ensuring that IEP services are being provided in the manner they are required by an IEP. A monitoring report of 10 randomly selected students receiving occupational therapy and/or speech/language services at [REDACTED] School reflecting the completed service logs for occupational therapy and/or speech/language services by February 1, 2024, April 19, 2024, and June 14, 2024.

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

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

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.

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. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention/Special Education Services

ALH: sd

c: Dr. Myriam Rogers, Superintendent, BCPS
Ms. Conya Bailey, Director, Special Education, BCPS
Ms. Charlene Harris, Director, Compliance, BCPS
Mr. Jason Miller, Coordinator, Compliance, BCPS
Ms. Norma Villanueva, Specialist, Compliance, BCPS
[REDACTED]
Ms. Alison Barmat, Branch Chief, Family Support and Due Process, MSDE
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Ms. Sarah Denney, Complaint Investigator, MSDE
Ms. Diane Eisenstadt, Compliance Specialist, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE