



December 14, 2023



Ms. Denise Mabry  
Director of Compliance and Due Process  
Baltimore City Public Schools  
200 East North Avenue, Room 204B  
Baltimore, Maryland 21202

RE: [REDACTED]  
Reference: #24- 068

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention/Special Education Services (MSDE), has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigation.

**ALLEGATION:**

On November 9, 2023, MSDE received a complaint from [REDACTED] hereafter, “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City 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 allegation that the BCPS has not ensured that the student was provided with the speech/language services as required by her IEP since February 2023, in accordance with 34 CFR §§ 300.101 and .323.

**BACKGROUND:**

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

**FINDINGS OF FACTS:**

The student’s IEPs developed on November 29, 2022, and November 7, 2023, require that the student be provided with two weekly twenty minute sessions of speech/language services outside the general education classroom.

There is documentation that the student received speech/language services for the month of February 2023, in the manner required by the student's IEP.

In its written response, the BCPS acknowledges that the student's IEP requires that she be provided with speech/language services, that these services have not been provided and that violations occurred with respect to the allegation identified since March 2023. The BCPS further acknowledges that the student had missed "nine speech/language sessions during the 2023- 2024 school year. The BCPS will provide makeup services for any sessions missed during the current school year once the newly hired speech/language pathologist starts".

On November 7, 2023, the IEP team met with the purpose of conducting an annual review and "Free and Appropriate Public Education" (FAPE) determination based on the missed speech/language services during the 2022- 2023 school year. The IEP team agreed to 3 hours and thirty minutes of compensatory services for missed speech/language services during the 2022- 2023 school year.

### **CONCLUSIONS:**

#### **February 2023**

Based upon Findings of Facts #1- #2, MSDE finds that the BCPS has ensured that the student was provided with the speech/language services as required by her IEP in February 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 the allegation.

#### **March 2023- Present**

Based upon Findings of Facts #1, #3, and #4, MSDE finds that the BCPS has not ensured that the student was provided with the speech/language services as required by her IEP since March 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds a violation occurred with respect to this aspect of the allegation.

### **CORRECTIVE ACTIONS/TIMELINES:**

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, 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.<sup>1</sup> 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.

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<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, 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.

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.<sup>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [diane.eisenstadt@maryland.gov](mailto:diane.eisenstadt@maryland.gov).

### **Student Specific**

MSDE requires the BCPS to provide documentation by June 20, 2024, that the student has received the compensatory services awarded on November 7, 2023. MSDE further requires the BCPS to provide documentation by February 23, 2024, that the student is receiving the speech/language services required by her IEP and that the IEP team has convened and determined the amount and nature of compensatory services or other remedies to redress the violation from the 2023- 2024 school year. The IEP team must develop and implement a plan for the provision of those services within a year of the date of this Letter of Findings. The student's parent retains the right to file mediation and due process in response to this allegation.

### **Similarly Situated Students**

MSDE requires the BCPS to inform all parents and guardians of students who require speech and language services as part of their IEP of any vacancy and/or updates to already notified parents and guardians by February 23, 2024. MSDE further requires that BCPS identify all similarly situated students at [REDACTED] School that were not provided speech and language services during the 2022-2023 and 2023-2024 school year, convene IEP team meetings and determine how those services will be provided moving forward for the remainder of the school year, as well as determining compensatory services for each student based on the lapse of implementation of services.

### **Systemic**

The public agency is required to ensure that the student is provided with the special education and related services required by the IEP (34 CFR §300.101). In this case, the student was not provided with speech and language services pursuant to the IEP. Staffing concerns do not mitigate the requirement to provide a FAPE. MSDE has informed local education agencies of the need to identify strategies to address shortages in order for students to continue to be provided with the services their IEP requires, such as virtual, contract, reimbursement, or other means. BCPS is required to provide MSDE with a plan to address long term absences of speech and language pathologists by March 1, 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 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.

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

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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 and Special Education Services

ALH: sd

c: Dr. Sonja Santelises, Chief Executive Officer, BCPS  
Dr. Rachel Pfeifer, Executive Director, BCPS  
Ms. Christa McGonigal, Educational Specialist, BCPS  
[REDACTED]  
Ms. Alison Barmat, Branch Chief, Family Support and Due Process, MSDE  
Dr. Paige Bradford, 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  
Mr. Gerald Loiacono, Section Chief, Complaint Investigation, MSDE