

February 2, 2024

Redacted¹

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

RE: [REDACTED]
Reference: #24-083

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 November 3, 2023, MSDE received a complaint from the complainant, on behalf of 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.

1. The BCPS has not ensured that the student's progress towards obtaining annual Individualized Education Program (IEP) goals was measured in the manner required by their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323.2
2. The BCPS has not ensured that the student was provided with the special education instruction and supports designed to allow the student to advance toward attaining annual goals in their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323.
3. The BCPS has not ensured that the IEP developed for the student addresses their academic or transition needs, since July 2023, in accordance with 34 CFR §300.324.
4. The BCPS has not ensured that the student was provided with the support of a dedicated adult assistant, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 and .323.

¹ At the complainant's request, their name and contact information will not be shared with the local education agency.

BACKGROUND:

The student is twenty-one years old and is identified as a student with an Intellectual Disability under the IDEA. She is placed by the BCPS at the [REDACTED] a nonpublic special education program, and has an IEP that requires the provision of special education services.

FINDINGS OF FACTS:

1. In preparation for her triennial re-evaluation in January 2023, the IEP team at the [REDACTED] reviewed the most recent assessments conducted for this student. Included in this review were an educational assessment, a psychological evaluation, and a language evaluation.
2. The Educational Assessment Report developed for the student, dated September 20, 2021, reflects that on the Woodcock-Johnson IV-Form B, the student received a standard score of <40 in all subtests, with an equivalent score grade of 1.1 in letter word identification; <K.0 in calculation, math fact fluency, and applied problems; <K.2 in sentence writing fluency, K.3 in passage comprehension; K.4 in spelling; and K.6 in oral reading. Based on a review of the student's strengths and weaknesses it was determined that an effective program for the student would employ basic math and reading skills, and the student may require special education and support services in the areas of mathematics, written language, and reading.
3. The student's most recent language evaluation, dated September 22, 2021, demonstrated that the student was exhibiting receptive language skills at a similar level to those shown in her evaluation during the 2014-2015 school year, and concerns were reported in the area of understanding future time/events. It was stated that the student had made modest gains in expressive language skills since her last evaluation, but there were relative gaps in vocabulary skills and weaknesses in concepts related to animals or manufacturing. The report states that the student uses spoken language for communication, seeks clarification, and repairs conversational errors or challenges. Pragmatic/social language was considered a relative strength for the student.
4. The student's most recent psychological assessment dated December 13, 2022, states that the student's cognitive performance on the Comprehensive Test of Nonverbal Intelligence-Second Edition (CTONI-2) was in the very poor range, and her adaptive functioning was lower than would be expected for a student her age. The student was not able to complete any individual-based cognitive assessment, and showed significant impairment to her cognitive functioning, thus demonstrating an Intellectual disability. Due to the student's low performance on the CTONI-2, the Vineland-3 was administered. The report states that standard scores between 70 and 85 are moderately low, and standard scores of 70 and below are considered low and may indicate significant deficits in functioning. In these domains, the student received a 68 in communication, which is considered low; and a 76 and 80 in daily living skills and socialization respectively, which is considered moderately low.
5. On January 4, 2023, the IEP team at [REDACTED] met to conduct the reevaluation for the student. At the meeting, the team reviewed the psychological assessment that had been completed for the student on December 13, 2022. The prior written notice (PWN) from this meeting states that the student's cognitive performance was in the very poor range, and her adaptive functioning was lower than would be expected for a student her age. The team reviewed the student's academic performance and determined that the goals and objectives in the student's IEP continued to be appropriate to meet the student's academic needs at that time. The team determined to add "chunking of assignments",

“breaking down of information”, and “checking for understanding” to the student’s supplementary aids and services. It was stated that the student has a significant cognitive disability, and has deficits in cognitive skills, adaptive skills, and academic skills. For these reasons, the student requires materials to be presented in a concrete, simplified manner to promote her understanding of basic concepts and skills and to access the alternate achievement standards. The PWN stated that the student requires specially designed instruction to meet her academic and life skills needs, and she continued to meet all of the criteria to receive instruction from the alternate framework. No other revisions were made to the student’s IEP.

6. The student’s IEP developed from this meeting, dated October 7, 2022, was amended on January 13, 2023. The student’s primary disability is listed as intellectual disability. Eligibility data in the IEP reflects that the team utilized the student’s most recent formal evaluations to make its determinations. It is stated that the student is participating in a six-year program and will exit with a certificate of program completion at the end of the school year when she turns 21 years old. Graduation for this student is listed as June 30, 2024. The IEP denotes the student’s present level of academic achievement and functional performance to be on a first-grade level for reading vocabulary, reading comprehension, and math problem-solving; below a first-grade level in math calculation and written language expression; and below age level in speech and language receptive language, expressive language, and pragmatic language. The student was deemed below the expected age level in social interaction skills and visual motor skills. The student was also noted to be significantly low in her cognitive functioning as a student with a diagnosis of Down’s syndrome and Intellectual Disability. With regard to secondary transition, the student was determined to be below age/grade expectations in employment, education/training, and independent living. The secondary transition information reflects that the student completed a Picture Interest Career Survey (PICS), a teacher interview, and the Transition Planning Inventory (TPI-2) School Rating Form Second Edition on September 28, 2022. These assessments were used to determine the student’s needs and interests concerning secondary transition. The IEP provides information that summarizes the student’s secondary transition interview and inventory findings, as well as the student’s specific transition-related needs in the areas of working, learning, and living. It was determined that the student did not require assistive technology aside from a calculator for mathematical operations. The student’s special considerations and accommodations included general administration directions read aloud and repeated as needed, reduce distractions to self, calculation device and mathematics tools on mathematics assessments, monitor test response, and extended time (2.0x). The student’s supplementary aids, services, program modifications, and supports included checking for understanding, providing information in linear sequential order, allowing the use of manipulatives, use of word bank to reinforce vocabulary and/or when extended writing is required, repetition of directions, encourage repetition and reduced rate of speech, breakdown assignments into smaller units, chunking of text, use pictures to support reading passages whenever possible, small school setting, home-school communication, low student to staff ratio, use of positive concrete reinforcers, speech/language pathologist consult, and occupational therapist consult. The IEP required the student to receive thirty hours weekly of special education services in a private separate day school and transportation.
7. The IEP further required quarterly reporting of progress towards the achievement of annual goals in writing to the parent. The evaluation method of the annual math calculation, reading vocabulary, reading comprehension, math problem solving, social interaction skills, and community-based instruction required the use of informal procedures and education data collection in 4 out of 5 trials. The evaluation method of the two annual written language expression goals required the use of an observation record in 4 out of 5 trials and 3 out of 5 trials respectively. The IEP also includes secondary transition activities in the areas of employment training and independent living. These activities are

related to her academic IEP goals in the areas of math calculation, social interaction skills, and community-based instruction. The IEP reflects that as of September 25, 2023, the student had partially completed one employment training goal while the other was never initiated; but she had completed all three of her independent living activities. The student's progress toward her academic goals and secondary transition activities was documented quarterly throughout the 2022-2023 school year.

8. On October 3, 2023, the IEP team at [REDACTED] met to conduct the student's annual review. According to the PWN from this meeting, the team proposed to revise the student's transition plan, assist the parent and DDA (Developmental Disabilities Administration) with coordinating a meeting to begin the process of identifying post-secondary needs for the student, continue the student's occupational therapy consult for fifteen minutes quarterly, continue the student's speech-language pathology consult, continue the student's instructional and testing accommodations, and supplementary aids and services that were in place, continue the student on the certification track, revise the student's transition plan, and continue the student's least restrictive environment at a private separate day school. The PWN reflects that the team discussed the student's transition and had invited a DORS (Department of Rehabilitation Services) representative who did not attend, but a future meeting between DORS and [REDACTED] was scheduled. It was stated that the student had met five of her seven transition goals, and DORS and DDA referrals had been completed. The student's tentative graduation date was discussed, DDA services were explained, and it was noted that the team was in the pre-planning period and that a "person-centered" plan for the student would be developed and funding would be secured. It was stated that the student and DDA would begin looking at agencies "around" January. The parent shared that the student would continue to live with her after graduation. The parent also shared her concerns about job safety, and it was noted that there are shadow supports available that could address the student's safety needs. The team shared that the student participates in a clerical vocational group during the school day, and the team agreed to revise the transition plan and noted that the adult program would begin July 1, 2024. The student's progress in occupational therapy was discussed, and it was shared that the student was able to put on her hood and mute noises to prevent the student from getting "overloaded with noises." The team agreed to continue the student's occupational therapy consult for fifteen minutes quarterly. The student's speech-language services were discussed, although the speech-language pathologist did not attend the meeting. It was shared that the student has problems with the speed of her speech at times, which impacts her intelligibility at times. When that occurs, the student is prompted to slow down or is asked the question again. The team agreed to continue the student's speech therapy consult for fifteen minutes quarterly. The special educator reviewed the student's academic progress, and it was stated that the student's interest in reading has grown and that the student requests extra work during free time. The parent stated that the student reads frequently at home as well. The teacher shared that the student has had reading skills connected to vocational and job-related skills and that she had mastered her reading comprehension and reading vocabulary goals. It was also shared that the student had demonstrated more independence when using a calculator, and although she had mastered two of the three math calculation objectives, she had not mastered her math calculation or math problem-solving goals. The student had also achieved one of her two writing goals, and three of her four writing objectives, and had made progress. The student had mastered her social interactions goal and had also achieved her community-based instruction goal. The team decided to revise these goals to be geared more toward functional and transition needs. It was stated that the student has friends in her class, and the teacher suggested that the girl's group that the school was planning for upcoming graduates may be helpful for the student. The team agreed to continue her special education services for thirty hours weekly. The PWN reflects that the student will exit the program in June of 2024 with a certificate of completion at age twenty-one. The team determined that the student would continue to require

transportation, and there were no concerns regarding the student riding the bus. It was noted that the student would not be eligible for Extended School Year (ESY) due to her graduating in June, but the team determined that her eleven-month program would meet her needs.

9. The IEP currently in place for this student, dated October 3, 2023, reflects that the student's present levels of academic achievement and functional performance were on a first-grade level for reading vocabulary, reading comprehension, and math problem-solving. The student was performing below a first-grade level in math calculation and written language expression; and below the expected age level in her social interaction skills and visual motor skills. The student was noted to be significantly low in her cognitive functioning. With regard to secondary transition, the student was determined to be below age/grade expectations in employment, education/training, and independent living. The IEP reflects that on September 25, 2023, the student completed the Transition Planning Inventory TPI-2, a modified form for students with significant support needs (2nd edition), the Picture Interest Career Survey (PICS), and the [REDACTED] Transition Interview. Based on these results, the student's specific transition-related needs, areas of career interest, and desired work environment were identified. The next steps for her transition progress were determined and include working to follow a multi-step direction format for employment. The IEP reflects that referrals have been made to DDA and DORS. The IEP also contains transition activities in employment training, academics, and independent living, dated October 12, 2023, which had not been initiated. Her course of secondary transition study was listed as consumer services, hospitality, and tourism. With regard to communication, the information from the speech-language pathologist, dated October 2022, reflects that the student was able to follow familiar and novel two to three-step directions with verbal prompts, with significant regression during scheduled school breaks. It was also noted that the student may have short-term memory issues, but can communicate wants, needs, and ideas in spoken and basic written forms without the need for additional technologies outside of a calculator for mathematical operations. The instructional and assessment special considerations and accommodations include general administration directions read aloud and repeated as needed, headphones and noise buffers, reduced distractions to self, a calculation device, monitored test responses, and extended time (2.0x). The supplementary aids, services, and program modifications and supports include checking for understanding, providing information in linear sequential order, allowing the use of manipulatives, use of word bank to reinforce vocabulary and/or when extended writing is required, repetition of directions, encourage repetition and reduced rate of speech, break down assignments into smaller units, chunking of texts, use pictures to support reading passes whenever possible, small school setting, home-school communication system, low student to staff ratio, use of positive/concrete reinforcers, speech/language pathologist consult, and occupational therapy consult. The student's special education services are listed as thirty hours weekly outside of special education to be provided by a special education teacher or instructional assistant. The student was also provided with the related services of transportation. Placement data reflects that the team considered placements inside general education, a public separate day school, and a private separate day school. The IEP states that private separate day school was accepted because it can provide the intensive structure and supervision required for social/emotional/behavior, academic, speech and language, and occupational therapy needs that were identified in the student's IEP. It is also stated that the benefits of the private separate day school environment are seen to outweigh the increased distance and time in transportation, and the student would have the opportunity to interact with her non-disabled peers in the community. The IEP reflects that the student will exit with a certificate of program completion at the end of the school year when the student turns 21.

10. The IEP further requires the reporting of progress towards the achievement of annual goals quarterly and in writing to the parent. The evaluation method of the annual reading comprehension, reading vocabulary, and community-based instruction goals requires the use of informal procedures and education data collection in 4 out of 5 trials. The evaluation method of the annual math calculation, math problem solving, and both written language expression goals require the use of an observation record. Math calculation, social interaction skills, and one written language expression goal require 3 out of 5 trials, while math problem solving and one written language expression goal require 4 out of 5 trials.
11. The student's IEP progress report, dated October 3, 2023, reflects that the student was not making sufficient progress to achieve her goals in the areas of math calculation, math problem solving, and one of her written language expression goals (dated October 2, 2023). The student's progress on these goals was reported in the method required by the IEP.
12. The student's IEP progress report dated October 2, 2023, reflects that the student had achieved her other written language expression goal in addition to her reading vocabulary, reading comprehension, community-based instruction, and social interaction skills goals. The progress reported on the written language expression, reading vocabulary, and reading comprehension goals was reported in the method required by the IEP.
13. The student's October 2, 2023, community-based instruction goal required that the student achieve the goal in four out of five trials with no percentage for accuracy. The student's progress is noted as being achieved in four out of five trials, however, there is no documentation of what the student achieved with regard to the goal or its objectives. The progress reported on this goal was not reported in the method required by the IEP.
14. The student's October 2, 2023, social interaction skills goal required that the student achieve the goal in four out of five trials with no percentage for accuracy. The student's progress on this goal is noted as being four out of five trials, but there is no documentation of what the student achieved with regard to the goal or its objectives.
15. The student's IEP goals in math calculation, math problem solving, community-based instruction, social interaction skills, and reading vocabulary on her IEP dated January 13, 2023, are not aligned with grade-level standards. The student's reading comprehension and written language expression are aligned with grade-level standards.
16. The student's October 12, 2023, progress report in the areas of math calculation, written language expression, reading vocabulary, reading comprehension, community-based instruction, social interaction skills, and math problem solving, is reported as being "newly introduced skill; progress not measurable at this time".
17. The student's IEP goals in her October 3, 2023, IEP in the areas of math calculation, reading vocabulary, and written language expression goal requiring her to write one cohesive paragraph are not aligned with grade-level standards. The student's math problem-solving, community-based instruction, social interaction skills, and reading comprehension goals, as well as her written language expression goal concerning a modified job application, are all aligned with grade-level standards.

18. The student's progress report dated January 5, 2024, states that she made sufficient progress toward her goals in all areas except community-based instruction which is reported as "not yet introduced."
19. The progress reported on the student's annual goals in math calculation, reading vocabulary, reading comprehension, and social interaction skills were reported using the evaluation method required by the IEP in January 2024.
20. The progress reported on the student's annual goals in math problem-solving does not provide any progress data. The student's progress was not reported using the evaluation method required by the IEP in January 2024.
21. The progress reported on the student's written language expression goals does not provide any progress data. The student's progress was not reported using the evaluation method required by the IEP in January 2024.
22. The student's progress toward her secondary transition activities is still reported as "not yet initiated" to date.
23. The Speech-Language Pathology annual progress summary for the student, dated October 3, 2023, states that the student received fifteen minutes of speech and language consultation quarterly to support communication and functional skills.
24. The Occupational Therapy annual progress summary for the student states that the student received fifteen minutes of occupational therapy consultation quarterly to provide strategies or accommodations for the generalization of visual motor skills.
25. There is documentation that the student's teacher has a conditional teacher certificate from the Maryland State Department of Education (MSDE) effective January 1, 2023, and expiring December 31, 2024. The endorsements attached to the certification are Generic Special Education, attained July 5, 2023, from grade level 6-Adult.
26. Lesson plans provided reflect the provision of the instructional supports and modifications required by the student's IEP, however, no work samples from these lessons have been provided to demonstrate that the student has received these instructional supports since July 2023.

CONCLUSIONS:

ALLEGATION #1: Measuring Progress Toward IEP Goals As Required By IEP

The first allegation concerns whether or not the student's IEP goals were measured in the manner required by her IEP. An IEP must include a statement of measurable annual goals that includes a description of how the child's progress toward meeting the annual goals will be measured; and when periodic reports on the progress the child is making toward meeting the annual goals will be provided. (34 CFR §§300.320)

The student's January 2023 IEP, which was in place until October 2023, required progress toward IEP goals to be reported quarterly and in writing to the parent. The evaluation methods required included the use of informal procedures and education data collection on some goals and the use of an observation record on others. All goals required that the student's progress be determined in 4 out of 5 or 3 out of 5 trials. Documentation shows that the student's progress report developed on October 2, 2023, did not measure

the student's progress in the areas of community-based instruction and social interaction skills in the manner required by her IEP. The student's progress report dated October 12, 2023, contained the new goals developed at her October 3, 2023, IEP meeting and had not been introduced to the student at the time of the progress report. Documentation shows that the student's progress report developed on January 5, 2024, did not measure the student's progress in the areas of math problem-solving and written language expression in the manner required by her IEP.

Based on the Findings of Facts #13 to #14 and #18 to #19, MSDE finds that the BCPS has not ensured that the student's progress towards obtaining annual Individual Educational Program (IEP) goals was measured in the manner required by their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2: Provision of Special Education Instruction and Supports

The issue in the second allegation is whether or not the student received the special education instruction and supports required for her to advance toward attaining her annual IEP goals. As soon as possible following the development of the IEP, special education, and related services should be made available to the child in accordance with the child's IEP (34 CFR §300.323). The IEP must include a statement of the special education and related services and supplementary aids and services, to be provided to the child, and a statement of the program modifications or supports that will be provided to enable the child to advance appropriately toward attaining those annual goals. (34 CFR §300.320)

The student's IEP dated January 13, 2023, which was in place until October 2023, and the student's October 3, 2023, IEP, which is currently in place, required the student receive, among other instructional supports, assignments broken down into smaller units, chunking of text, and use of pictures to support reading passages whenever possible. The documentation provided demonstrates that the student may have received these instructional supports during the 2022-2023 school year, but the evidence provided does not support the premise that the student has received these supports since July 2023.

Based on the Findings of Facts #6 to #7, #9 to #19, and #24, MSDE finds that the BCPS has not ensured that the student was provided with the special education instruction and supports designed to allow the student to advance toward attaining annual goals in their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #3: Developing an IEP that Addresses Academic and Transition Needs

The issue in the third allegation is whether or not the student's IEP has addressed her academic or transition needs since July 2023. 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. The team must also revise the IEP to address any lack of expected progress toward the annual goals and in the general education curriculum, and the results of any reevaluation (34 CFR §300.324)

The student's IEPs dated January 13, 2023, and October 3, 2023, both contained IEP goals that were not aligned with grade-level standards. The expectation is that while students may have IEP goals that are below grade level, they must have at least one goal that is aligned with grade-level standards. In this case, the student is now a senior in high school, and several of the IEP goals that were developed for the student in her past two IEPs were not aligned with grade-level standards. Additionally, the team had not addressed the areas where the student was not making sufficient progress to advance toward her IEP goals. When the

team met on October 3, 2023, the student was not making sufficient progress in her math goals and one of her writing goals. The team discussed the student's goals but revised her goals to be geared more toward functional and transition needs rather than considering providing her more support in the areas of math and writing.

When a student turns 14 years old, the IEP must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services needed to assist the child in reaching those goals. (COMAR 13A.05.01.09)

Both of the student's IEPs dated January 13, 2023, and October 3, 2023, include secondary transition information for this student in the areas of employment, education/training, and independent living, as well as transition activities. The student also completed the Picture Interest Career Survey (PICS), the Transition Planning Inventory (TPI), and a student interview for each IEP. Both IEPs also include information about the student's interests, capabilities, and needs in the aforementioned areas. However, on the January 13, 2023, IEP the student only partially completed one of her two employment training activities, and the other activity was never initiated. She did, however, complete all three of her independent living activities. On the October 3, 2023, IEP the secondary transition activities have not been initiated to date.

Based on the Findings of Facts #7 to #8, #15, #17, and #22, MSDE finds that the BCPS has not ensured that the IEP developed for the student addresses their academic or transition needs, since July 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #4: Provision of a Dedicated Adult Assistant

The issue in the fourth allegation is whether or not the student was provided with the support of a dedicated adult assistant as required by her IEP since July 2023. As soon as possible following the development of the IEP, special education, and related services should be made available to the child in accordance with the child's IEP. (34 CFR §300.323)

The student's IEPs dated January 13, 2023, and October 3, 2023, do not require the provision of a dedicated adult assistant.

Based on the Findings of Facts #6 and #9, MSDE finds that the BCPS was not required to ensure that the student was provided with the support of a dedicated adult assistant, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur with respect to the allegation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

For a student to be determined to have a significant cognitive disability, a review of student records must indicate a disability or multiple disabilities that significantly impact cognitive functioning, educational performance, and adaptive behavior. While the student's cognitive performance on the CTONI-2 was in the very poor range, and her adaptive functioning was deemed lower than would be expected for a student her age, her adaptive functioning scores on the Vineland-3 were low to moderately low. This level of adaptive functioning may not rise to the level of a student who should participate in the Alternate Framework. However, a review of the Alternate Appendix A: Participation Criteria and Checklist from the October 3, 2023, IEP meeting reflects that the assessment used to determine the student's adaptive skills

was not the most recent psychological evaluation conducted for this student on December 13, 2022, but was instead an assessment conducted for the student on January 22, 2015.

Based on the Finding of Facts #4, #6, and #9, MSDE finds that the BCPS did not follow proper procedures in making the determination that the student would participate in the modified/alternative Maryland School Assessment Program and/or would pursue a Certificate of Program Completion instead of a high school diploma, in accordance with 34 CFR §300.320 and COMAR 13A.03.02.09. Therefore, this office finds that a violation occurred with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include 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. 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.² 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. Sarah Denney, to ensure the effective implementation of the action.³ Ms. Denney can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov

Student-Specific

MSDE requires that no later than April 1, 2024, the BCPS provide professional development to the IEP team at The [REDACTED] regarding writing grade-level aligned IEP goals, and appropriate data collection and reporting of the student's progress on those goals. Additionally, the IEP team at the [REDACTED] should receive professional development on how to align classroom instruction with lesson plans designed to provide students with the instructional supports required by their IEP. Finally, by April 1, 2024, the BCPS must convene an IEP team meeting to reconsider the determination of the student's participation in the Alternate Framework. If the team determines that the student was wrongfully placed in the certificate of completion program, the amount of compensatory services or other remedy.

² The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, 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.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

School-Based:

MSDE requires that no later than April 1, 2024, the BCPS conduct a review of 10 similarly situated students in nonpublic schools who have been determined eligible to participate in the Alternate Framework. If BCPS determines that there are other students who were inappropriately determined eligible, the BCPS must convene an IEP meeting for those students to determine their correct eligibility, in addition to considering the amount of compensatory services or other remedy the student should receive to address the teams failure to provide the student with the correct instructional and state assessment participation. BCPS must report the results of this monitoring to MSDE no later than April 1, 2024.

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 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 and Special Education Services

ALH/ebh

C: Dr. Sonja Santelises, Superintendent, BCPS
Ms. Christa McGonigal, Educational Specialist, BCPS
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Ms. Sarah Denney, Complaint Investigator, MSDE
Ms. Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Ms. Elizabeth Hendricks, Complaint Investigator, MSDE