

February 22, 2024

**Revised February 28, 2024**

REDACTED

Ms. Allison Myers  
Executive Director  
Special Education Services  
Baltimore County Public Schools  
105 W Chesapeake Ave,  
Towson, Maryland 21204

RE: [REDACTED]  
Reference: #24-085

Dear Parties:

Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), has completed the investigation of the complaint<sup>1</sup> regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigation.

**ALLEGATIONS:**

On November 29, 2023, MSDE received a complaint from "the complainant" on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student. MSDE investigated the following allegations:

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. 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 needs since July 2023, in accordance with 34 CFR §300.324.
4. The BCPS has not ensured that the IEP developed for the student contains an accurate statement of the student's present levels of academic achievement and functional performance July 2023, in accordance with 34 CFR §300.320.

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

**BACKGROUND:**

The student is 13 years old and attends [REDACTED]. He is currently identified as a student with multiple disabilities (autism, emotional disability, intellectual disability, and other health impairment) under the IDEA and has an Individualized Education Program (IEP) that requires the provision of special education instruction and related services.

**Allegation #1: Progress Measured as Required by the IEP**

**FINDINGS OF FACTS:**

1. The IEP in effect in July 2023 was developed on June 7, 2023. The IEP reflects that progress reports towards achieving annual IEP goals will be issued quarterly.
2. The self-management goal states, "By April 2024, with adult support and given a behavior intervention plan utilizing first/then language, access to breaks, and frequent opportunities for reinforcement, [student] will decrease current rates of maladaptive behavior by 50% across a marking period." The method of measurement is observation record.
  - a. The progress report developed on October 12, 2023, reflects current rates of problem behavior – Verbal-Disruption: 0.59 per day, Work Refusal: 0.28 per day, Elopement: 0.17 per day, and Aggression: 0.21 per day.
  - b. The progress report developed on January 5, 2024, states, "During the current marking, there was an increase in maladaptive behaviors compared to baseline rates from MP 1. Several factors may have potentially impacted these rates. First, [student] attendance remains inconsistent. Second [student] has had difficulty with peer interactions with one specific peer that has driven an increase in maladaptive behavior. Finally, his class structure has changed with the addition of new students creating additional negative peer interactions as he adjusts. BIP retraining and implementation monitoring will occur to ensure accurate implementation and effective treatment efficacy. Verbal-Disruption: 1.04 times per day, Work Refusal: 0.36 times per day, Elopement: 0.04 times per day, Aggression: 1.04 times per day."
3. The self-management goal states, "By April 2024, with adult support and given a behavior intervention plan utilizing first/then language, access to breaks, and frequent opportunities for reinforcement, [student] will engage in appropriate replacement behaviors (e.g., asking for a break, asking to leave the room) with 80% independence in the absence of maladaptive behavior across a marking period." The method of measurement is observation record.
  - a. The progress report developed on October 12, 2023, reflects "100% accuracy: Current data shows that [student] displays replacement skills: Requests break or more time: 100% of opportunities, Requests to leave area: 100% of opportunities for a break from work. However, recently [student] has been involved in peer conflicts. He does not independently request to get away from peers who annoy or provoke him. Thus, requests to leave an area need to be generalized across contexts that evoke problem behavior."
  - b. There is no documentation that a report on progress was developed for this goal during the second quarter of the 2023-2024 school year.

4. The reading comprehension goal reflects, “By April 2024, given graphic organizers, a human reader, an instructional level short text and/or real-life experiences, [student] will identify the problem, identify the solution, and sequence events with no more than 2 verbal prompts with 80% accuracy.” The method of measurement is observation record.
  - a. The IEP progress report developed on October 12, 2023, reflects “Obj 1(Not making sufficient progress): Given graphic organizers, a human reader, an instructional level short or text or real-life experience, [student] was able to verbally identify the problem with no more than 4 verbal prompts and 20% accuracy in 4 out of 5 trials. Objectives 2 and 3 were not addressed during this marking period.”
  - b. The progress reports developed on January 5, 2024, reflects, “1-05-2024: Obj 1 (Not making sufficient progress to meet goal) Given graphic organizers a human reader an instructional level short text or real-life experience, [student] was able to verbally identify the problem with no more than 4 verbal prompts with 20% accuracy in 4 out of 5 trials. Objectives 2 and three were not addressed during this marking period.”
5. The reading vocabulary goal reflects, “By April 2024, given functional academic and community sight words, [student] will read a set of 25 words and match meaning to community signs with 80% accuracy.” The method of measurement is observation record.
  - a. The progress reports developed on October 12, 2023, reflects, “2 out of 5 trials: Obj1 (Not Making Sufficient Progress to meet goal): Given functional community signs, oral reading of any words on the sign, and a graphic organizer as needed, [student] matches 12 community signs and/or words to their meaning with no more than 3 verbal prompts with 80% accuracy. Obj 2 (Not Making Sufficient Progress): At this moment student is able to identify 4-5 site words (Stop, Flammable, Handicap, Fire Exit) in 2 out of 5 trials given modified prompts for each word presented. His attendance is significantly impacting his ability to learn and retain information.”
  - b. The progress reports developed on January 5, 2024, reflects “1 out of 5 trials 01/05/2024. Obj 1 (Not Making Sufficient Progress): Given functional community signs, oral reading of any words on the sign, and a graphic organizer as needed, [student] matches 12 community signs and/or words to their meaning with no more than 3 verbal prompts with 80% accuracy. 01/05/2024: Obj 2 (Not Making Sufficient Progress): At this moment student is able to identify 4-5 site words (Stop, Flammable, Handicap, Fire Exit) in 2 out of 5 trials given modified prompts for each word presented His attendance is significantly impacting his ability to learn and retain information.”
6. The speech and language expressive language goal reflects, “By April 2024, [student] will increase his sentence structure in 75% of trials with up to 2 verbal prompts.” The method of measurement is observation record.
  - a. The IEP progress report developed on October 12, 2023, reflects, “Obj 1) 0/5 opportunities given 2 verbal cues. Obj 2) Not addressed this quarter.”
  - b. The IEP progress report developed on January 5, 2024, reflects “25 % Accuracy: Obj 1) 1/4 opportunities given 2 verbal cues Obj 2) similarities - 1 / 4 opportunities given 2 verbal and visual prompts, differences – 1 /4 opportunities given 2 verbal and visual prompts.”

7. The speech and language pragmatics goal reflects, "By April 2024, given conversations in academic, functional or social settings, [student] will use strategies to maintain conversation for 3 turns by asking a question or commenting in 3/4 opportunities with no more than 2 verbal prompts." The method of measurement is observation record.
  - a. The IEP progress report developed on October 12, 2023, reflects "2 out of 4 trials Obj 1) 2/4 with 1-2 verbal prompts with familiar partner Obj 2) 2/4 with 2 verbal prompts for nervous/excited/proud, frustrated."
  - b. The IEP progress report developed on January 5, 2024, reflects "2 out of 4 trials Obj 1) 3/4 with 1-2 verbal prompts with familiar partner Obj 2) 2/4 with 2 verbal prompts for nervous/excited/proud, frustrated."
8. The fine motor goal reflects, "By April 2024, [student] will copy his initials together legibly on a given line, type pertinent information (such as first name, street address, etc.) and/or short sentences utilizing shift key to capitalize letters and/or to type symbols as appropriate, cut out simple shapes with rotation with no more than 3 deviations less than 1/2" with verbal, visual, and gestural prompts in 3 out of 5 trials." The method of measurement is observation record.
  - a. The IEP progress report developed on October 12, 2023, reflects, "Obj. 1 [Student] has demonstrated the ability to trace his initials on 100% of trials and has not demonstrated the ability to copy his initials. When verbally prompted with and without a visual model, [student] consistently makes two symbols that do not resemble letters; however, the symbols are similar across multiple trials. Obj.2) [student] has not done formal typing on the computer in OT this quarter. He has demonstrated the ability to utilize the keyboard to play preferred racing games. Obj. 3) [student] has not participated in cutting activities in an OT session this quarter."
  - b. There is no documentation that a report on progress was developed for this goal during the second quarter of the 2023-2024 school year.
9. The written language expression goal reflects, "By April 2024, given letters, templates, skill sheets and/or typing opportunities, [student] will sequence the letters in his first name, sequence the letters in his last name and complete a modified job application with no more than 2 verbal prompts in 3 out of 4 trials." The method of measurement is classroom data.
  - a. The IEP progress report developed on October 12, 2023, reflects "Not making sufficient progress given a gestural and model prompts for each letter of his first name letter tiles stamps keyboarding opportunities etc. [student] was able to sequence and or type the letters in his first name with no more than 2 verbal prompts in 3 out of 4 trials. [Student] will need additional visual supports to breakdown the letters of his name, increase font size, and accessibility of letters, to better determine if he is able to sequence the letters of his name. Objectives 2 and 3 were not initiated during the first marking period."
  - b. The IEP progress report developed on January 5, 2024, reflects, "1 out of 4 trials 01-05-2024: Obj 1 (Not Making Sufficient Progress) Given a gestural and model prompts for each letter of his first name letter tiles stamps keyboarding opportunities etc. [student] was able to sequence and or type the letters in his first name with no more than 2 verbal prompts in 1 of 4 trials. [student] will need additional visual supports to break down the letters of his name, increase font size, and

accessibility of letters, to better determine if he is able to sequence the letters of his name.

01-05-2024: Obj 2 (Not Making Sufficient Progress) Given a gestural and model prompts for each letter of his first name letter tiles stamps keyboarding opportunities etc. [student] was able to sequence and or type the letters in his first name with no more than 2 verbal prompts in 1 of 4 trials. Objectives 3. Was not initiated during the 1st marking period.”

10. The social interaction skills goal reflects, “By April 2024, given structured group activities or opportunities for social interaction, Jayden will cooperatively play with at least one of his peers and will take turns to play a game with no more than 2 verbal prompts in 3 out of 4 trials.” The method of measurement is classroom data, and observation record.
  - a. The IEP progress report developed on October 12, 2023, reflects, “3 out of 4 trials: Obj 1 (Making Sufficient Progress) Given structured group activities and/ or opportunities for social interaction, [student] will cooperatively share items with at least one of his peers for 9-12 minutes (baseline for 6 minutes) with 3 or more verbal prompts in 2 out of 4 trials. Obj 2 (Making Sufficient Progress) Given structured group activities and/ or opportunities for social interaction a familiar game school appropriate language and adult support student will take turns with at least one of his peers to play a game for >3 turns with 3 or more verbal prompts in 3 out of 4 trials.”
  - b. The IEP progress report developed on January 5, 2024, reflects, “2 out of 4 trials: 01-05-2024: Obj 1 (Making Sufficient Progress) Given structured group activities and/ or opportunities for social interaction, [student] will cooperatively share items with at least one of his peers for 9-12 minutes (baseline for 6 minutes) with 3 or more verbal prompts in 2 out of 4 trials. 01-05-2024: Obj 2 (Making Sufficient Progress) Given structured group activities and/ or opportunities for social interaction a familiar game school appropriate language and adult support student will take turns with at least one of his peers to play a game for >3 turns with 3 or more verbal prompts in 2 out of 4 trials.”
11. The community skills goal reflects, “By April 2024, given functional academic and community sight words, Jayden will read a set of 25 words and match meaning to community signs with 80% accuracy as measured by work samples and/or observation record.”
  - a. The IEP progress report developed on October 12, 2023, reflects, “40 % Accuracy: Obj 1(Making Sufficient Progress) Given functional community signs, oral reading of any words on the sign, and a graphic organizer as needed, [student] was able to match at least 12 community signs and or words to their meaning with 3 or more verbal prompts with 80% accuracy. (i.e. Do not enter means stop/don’t go in) Obj 2 (Not Making Sufficient Progress) given functional academic and /or community site words and a decreasing initial sound verbal prompts, [student] was able to read 25 new functional academic and community site words with 3 or more verbal prompts an 80% accuracy. (baseline 25 words).”
  - b. The IEP progress report developed on January 5, 2024, reflects, “60 % Accuracy: Obj 1(Making Sufficient Progress) Given functional community signs, oral reading of any words on the sign, and a graphic organizer as needed, [student] was able to match at least 8 community signs and or words to their meaning with 3 or more verbal prompts with 80% accuracy. (i.e. Do not enter means stop/don’t go in) Obj 2 (Not Making Sufficient Progress) given functional academic and /or community site words and a decreasing initial sound verbal prompts, [student] was able to read 15 new functional academic and community site words with 3 or more verbal prompts an 80% accuracy. (baseline 25 words).”

12. The math calculation goal reflects, “By April 2024, given manipulatives, prompting, and graphic organizers, [student] will be able to build sets to 20 and identify a number that is 'more' and 'less' with 2 verbal prompts and 80% accuracy.”
  - a. The IEP progress report developed on October 12, 2023, reflects, “4 out of 5 trials: Obj 1-4 Not making sufficient progress. [Student] has not met the goal set due to several reasons. Firstly, there is a noticeable lack of awareness when it comes to number sense and number identification. Despite the provision of manipulatives, prompting, and graphic organizers, [student] still struggles with consistently recognizing and understanding numbers. [Student’s] approach to selecting answers appears to be haphazard and often random. This indicates a potential difficulty in applying systematic thinking when working with numbers, which is crucial for tasks involving identifying numbers that are more or less. This random selection approach can lead to inaccuracies and inconsistent performance.”
  - b. The IEP progress report developed on January 5, 2024, reflects, “1 out of 5 trials: 01-05-2024: (Not Making Sufficient progress) Obj 1-4 [student] has not made any real progress with objectives 1-4 of his goal. [Student] will need to attend class a lot more frequent so the things put in place to make sure he has a good day, without doing too much.”
13. The math problem solving goal reflects, “By April 2024, given orally read word problems with visual supports, visual cues, and highlighted key words, [student] will solve addition and subtraction word problems with no more than 2 verbal prompts with 80% accuracy.”
  - a. The IEP progress report developed on October 12, 2023, reflects “80% Accuracy: Obj 1: (Achieved) Given orally read word problems with visual representations, visual cues, and highlighted key words, [student] identified the operation needed to solve a one-step word problem with no more than 2 verbal prompts with 80% accuracy. Objectives 2 and 3 had insufficient data to report progress.”
  - b. The IEP progress report developed on January 5, 2024, reflects, “60% Accuracy: 01-05-2024: Obj 1: (Achieved) Given orally read word problems with visual representations, visual cues, and highlighted key words, [student] identified the operation needed to solve a one-step word problem with no more than 2 verbal prompts with 80% accuracy. 01-05-2024: Obj 2: (Making Sufficient Progress) Given orally read word problems with visual representation, visual cues, and highlighted key words, [student] can solve a one-step word problems using addition with no more than two verbal prompts with 60% accuracy. 01-05-2024: Obj 3: (Making Sufficient Progress) Given orally read word problems with visual representation, visual cues, and highlighted key words, [student] can solve a one-step word problem using subtraction with no more than two verbal prompts with 60% accuracy.”
14. The visual motor goal reflects, “By April 2024, Given visual supports as necessary, [student] will demonstrate increased visual motor skills by accurately identifying (by pointing, verbalizing, or during typing tasks) the letters of his first name to complete an academic and/or functional task (such as a modified job application) with increased accuracy and will visually attend to color within boundary lines of a school-based task with no more than 3 deviations outside the guideline with verbal, gestural, and/or visual prompts in 3 out of 5 trials.”

- a. The IEP developed on October 12, 2023, reflects, “Obj. 1) [student] has accurately traced the letters of his first name on 2/2 occasions, but did not state the letters aloud. Obj. 2) [student] has not participated in a coloring task in OT this quarter.”
- b. There is no documentation that a report on progress was developed for this goal during the second quarter of the 2023-2024 school year.

### **DISCUSSION/CONCLUSION**

The IEP must include 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 (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided. 34 CFR § 300.320

Based on the Findings of Fact #1, #4, #5, #9 through #11, and #13, MSDE finds that the BCPS has ensured that the student's progress towards obtaining annual IEP goals was measured in the manner required by their IEP (with the exception stated below), since July 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, MSDE finds that a violation has not occurred with this aspect of the violation.

Based on the Findings of Fact #2, #6, and #7, MSDE finds that the BCPS has not ensured that the student’s progress towards obtaining mastery of the annual self-management, speech language expressive and speech language pragmatics goals were measured in the manner required by their IEP, in October 2023, in accordance with 34 CFR §§300.320 and .323. The BCPS did not explain what the date reported represented. Therefore, MSDE finds that a violation occurred with this aspect of the violation.

Based on the Findings of Fact #6, and #7, MSDE finds that the BCPS has not ensured that the student’s progress towards obtaining mastery of the annual speech language expressive and speech language pragmatics goals were measured in the manner required by their IEP, in January 2024, in accordance with 34 CFR §§300.320 and .323. The BCPS did not explain the data that was reported. Therefore, MSDE finds that a violation occurred with this aspect of the violation.

Based on the Findings of Fact #3, #8, and #14, MSDE finds that the BCPS did not develop a report of progress for self-management, fine motor, and visual motor goals during the second quarter of the 2023-2024 school year, in accordance with 34 CFR §§300.320 and .323. Therefore, MSDE finds that a violation occurred with this aspect of the violation.

**Allegations #2 and #3: Provision of Special Education Instruction and Supports, and Development of the IEP**

### **FINDING OF FACTS:**

15. The IEP in effect in July 2023 was developed on April 28, 2023. The IEP reflects the following areas are impacted by the disability: Math Calculation, Math Problem Solving, Reading Comprehension, Reading Vocabulary, Speech and Language Expressive Language, Speech and Language Pragmatics, Written Language Expression, Community Skills, Self-management, Behavioral Social Interaction Skills, Fine Motor, and Visual Motor. Specially designed instruction outside of the general education classroom is required for twenty-nine hours per week. Occupational Therapy (OT) as a related service is required for two fifteen-minute sessions per week, for a total of thirty minutes weekly outside of the general education classroom, and Speech as a related service is required twice a week for a total of thirty

minutes outside of the general education classroom. The IEP requires instructional and assessment accessibility and accommodations. A BIP is also required. The IEP requires supplementary aids, services, program modifications and supports to support instructional, program modification, social/behavior needs, personnel/parental supports:

- a. daily - teach/encourage clarification strategies, allow use of manipulatives, check for understanding, picture schedule, repetition of directions, frequent and/or immediate feedback, provide alternative ways for student to demonstrate learning, break down assignments into smaller units, use pictures to support reading passages, whenever possible, adult, support, sensory strategies;
  - b. monthly - social worker consult to members of the IEP team to determine what supports are needed;
  - c. quarterly - OT consultation collaboration with the IEP team regarding strategies, and services; and
  - d. as needed – crisis intervention.
16. There is documentation of the provision of sensory objects, headphones, clear identification of work area, visual timer, calculator, manipulatives (money) for math, manipulatives for fractions and telling time, and low-tech communication.
  17. There is documentation of classroom instruction as required by the IEP.
  18. There is documentation of the provision of the daily supplementary aids, services, program modifications and supports to support instructional, program modification, social/behavior needs, personnel/parental supports, as required by the student's IEP.
  19. There is documentation of a monthly social worker consultation: September 22, 2023, October 24, 2023, November 30, 2023, January 03, 2024, and January 30, 2024.
  20. There is no documentation of a social worker consultation in July 2023, or in August 2023.
  21. The OT log reflects there are missed OT services, resulting from an absence of the clinician.
  22. The SLP log reflects there are missed services, resulting from an absence of the clinician.
  23. There is documentation of the provision of OT consultation on September 14, 2023 (for 30 minutes) November 30, 2023, October 24, 2023, September 22, 2023.

#### **DISCUSSION/CONCLUSION:**

Because the student's progress on some of his goals were not appropriately measured, it was not possible to determine the individualized supports and services needed for the student to progress on his IEP goals. Based on the Findings of Fact #2, #3, #6 through #8, #12, #14, and #15, MSDE finds that the BCPS has not ensured that the IEP developed for the student addresses his academic needs, since July 2023, in accordance with 34 CFR §300.324. The BCPS did not ensure the report on student's progress of IEP goals was consistently



reported on. As a result, it is unclear if the IEP in effect, was appropriate. Therefore, MSDE finds that a violation did occur with respect to this allegation.

Based on the Findings of Fact #15, and #19 through #21, MSDE finds that the BCPS has not ensured that the student was consistently provided with the social worker consultation, OT services, and SLP services, 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, MSDE finds that a violation occurred with respect to this aspect of the allegation.

Based on the Findings of Fact #15, #16, and #17, MSDE finds that the BCPS has ensured that the student was provided with the instruction required by the IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323. Therefore, MSDE finds that a violation has not occurred with respect to this aspect of the allegation.

**Allegation #4: IEP Contains a Statement of Present Levels of Performance**

**FINDING OF FACTS**

24. The present levels of academic achievement and functional performance of the IEP in effect since July 2023, reflects: “[student’s] difficulties with academic performance in the areas of reading, written language, math, communication, language, fine motor, and social emotional behavior negatively impact his performance in the classroom. [Student] needs specially designed instruction in order to access grade level materials and meet standards. [Student] requires a more restrictive environment to meet his academic and behavior needs.”
25. The present level of academic achievement and functional performance of the IEP in effect since July 2023 does not include a statement of how the child's disability affects the child's involvement and progress in the general education curriculum in the following areas: reading vocabulary reading comprehension, math calculation, math problem solving, written language expression, speech and language expressive language, speech and language pragmatic language, social interaction skills, and self-management.

**DISCUSSION/CONCLUSION:**

The public agency must ensure that the student’s IEP includes a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children). 34 CFR §300.324

Based on Finding of Fact #24 and #25, MSDE find that the BCPS has not ensured that the student's IEP contains accurate present levels, since July 2023, in accordance with 34 CFR §300.324. The IEP does not include a statement of how the child's disability affects the child's involvement and progress in the general education curriculum. Therefore, MSDE finds that a violation has occurred with respect to this 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.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>2</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.

**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, Special Education Complaint Investigator, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>[3]</sup> Ms. Denney can be reached at (410) 767-7770 or by email at [sarah.denney@maryland.gov](mailto:sarah.denney@maryland.gov).**

### Student- Based

MSDE requires the BCPS to provide documentation by May 1, 2024, of the steps taken to ensure that the IEP team has taken the following action:

- a. Ensured that the student's progress towards obtaining all annual goals are measured in the manner required by the IEP that his IEP reflects the supports that the student requires to progress on his current goals; and
- b. Ensured that in IEP team meets for the purpose of revising the present levels of to include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum;
- c. Ensured that the student is provided with the social worker consultation, OT services, and SLP services as required by the IEP; and
- d. Convene an IEP meeting for the purpose of determining the impact of the violations. The IEP team must discuss if the violations regarding (i) the lack of documentation of student's progress towards obtaining annual self-management, math calculation, visual motor, fine motor, speech language expressive and speech language pragmatics goals, (ii) the lack of a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum, (iii) the inconsistent provision of social worker consultation, OT services, and SLP services as required by the IEP, (iv) any changes to the IEP based on the lack of appropriate progress monitoring, had a negative impact on the student's ability to benefit from the educational program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

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<sup>2</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.

<sup>3</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.

BCPS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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/Special Education Services

ALH/ra

c: Dr. Myriam Rogers, Superintendent, BCPS  
Conya Bailey, Director of Special Education, BCPS  
Dr. Jason Miller, Compliance Coordinator, BCPS  
Charlene Harris, Supervisor of Compliance, BCPS  
Norma Villanueva, Compliance Specialist, BCPS  
[REDACTED]  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Sarah Denney, Complaint Investigator, MSDE  
Rabiatu Akinlolu, Complaint Investigator, MSDE  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE