

February 22, 2024

Amended February 23, 2024

REDACTED

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

RE: [REDACTED]
Reference: #24-086

Dear Parties:

Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), has completed the investigation of the complaint¹ 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. 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 since July 2023, the student's progress towards obtaining annual Individualized Education Program (IEP) goals were measured in the manner required by the student's IEP, in accordance with 34 CFR §§300.320 and .323.
2. The BCPS has not ensured since July 2023, that the student was provided with the behavioral and academic supports, as required by their IEP, in accordance with 34 CFR §§300.101 and .323.
3. The BCPS has not ensured since July 2023, that the IEP developed for the student addresses the student's academic and behavioral needs, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 13 years old and attends [REDACTED] a nonpublic school. He is currently identified as a student with Autism under the IDEA and has IEP that requires the provision of special education instruction and related services.

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

Allegation #1: Progress measured as required by the IEP

FINDINGS OF FACTS:

1. The student's first day of attendance at [REDACTED] was September 12, 2023. IEP team meetings were held for the student on September 26, 2023, November 20, 2023, December 07, 2023, and January 4, 2024.
2. The IEP in effect when the student enrolled reflects progress reports towards achieving annual IEP goals will be issued quarterly.
3. On September 26, 2023, the IEP team met to review and revise the student's IEP for [REDACTED]. [REDACTED] The IEP reflects progress reports towards achieving annual IEP goals will be issued quarterly.

September 26, 2023, IEP goals and quarterly progress reports

4. The speech and language articulation goal reflects, "By September 2024, [student] will increase his articulation skills by producing final consonants within short phrases and marking syllables in multisyllabic words in 80% of opportunities, across three sessions." The method of measurement for this goal includes informal assessments, clinical observations, and observation records.
 - a. The progress report developed on October 12, 2023, reflects "Obj 1) 50% of opportunities given 1-2 verbal and visual prompts Obj 2) 35% of opportunities given 1-2 verbal and visual prompts. Obj 3) ¼ given a 1 verbal and visual prompt."
5. The fine motor goal reflects, "By September 2024, [student] will improve his fine motor and bilateral coordination skills needed for classroom and computer-based activities with 75% accuracy in 3 out of 4 trials." The method of measurement for this goal includes informal assessments, clinical observations, and observation records.
 - a. The progress report developed on October 12, 2023, reflects "Obj. 1) [student] uses 1 hand to type up to 5-word sentences with 75% accuracy. Obj. 2) [student] copies up to 5-word sentences and requires increased time for typing secondary to utilizing one hand and a hunt and peck method of typing."
6. The speech and language pragmatics goal reflects, "By September 2024 [student] will increase his social pragmatic language skills using total communication methods (e.g., speech gathering device, verbalizations, picture symbols) by initiating and responding to communication partners and using self-advocacy strategies in 80% of opportunities, across three sessions." The method of measurement for this goal includes informal assessments, clinical observations, and observation records.
 - a. The progress report developed on October 12, 2023, reflects "Obj 1) 2/5 with 1 verbal prompt to initiate and /or greet Obj 2) 3/5 given a 1 verbal and visual prompt."

7. The speech and language receptive language goal reflects, “By September 2024, [student] will increase his receptive language skills by making predictions, retell details from a narrative, sequence pictures or actions, and answer inferential questions in 80% of opportunities, across three sessions.” The method of measurement includes informal assessments, clinical observations, and observation records.
 - a. The progress report developed on October 12, 2023, reflects the goal was not yet introduced.
8. The speech and language expressive language goal reflects, “By September 2024, [student] will increase his expressive language skills by describing items providing at least two semantic features, use a 2–4-word utterance using spatial concepts, and categorize and describe items in 80% of opportunities.” The method of measurement includes informal assessments, clinical observations, and observation records.
 - a. The progress report developed on October 12, 2023, reflects, “Obj 1) 2/5 opportunities given 2 verbal and visual prompts Obj 2) Not addressed this quarter Obj 3) 1/5 opportunities given 1-2 verbal and visual prompts.”
9. The reading vocabulary goal reflects, “By September 2024, given a graphic organizer, a list or word bank of up to 20 words, a written sentence and set of manipulatives, [student] will sort into noun categories and manipulate the objects corresponding to a prepositional phrase with 80% accuracy across three sessions as measured by observation record.”
 - a. The progress report developed on October 12, 2023, “Objective 1:(Making Progress) Given a graphic organizer within a field of 2 (ex: person and place) with each word handed to him by one, [student] was able to sort words into categories to identify whether the word (noun) is a person, place or thing with 60% accuracy with gestural prompting in 4 trials. Objective: Not introduced in quarter 1.”
10. The social emotional goal reflects, “By September 2023, given behavioral management and differential reinforcement strategies, [student] will decrease his classroom inappropriate behaviors by 10% per quarter for a total decrease of 40%.” The method of measurement observation records and direct observation.
 - a. The IEP progress report developed on October 12, 2023, reflects, “[student] has adjusted well since he began attending [REDACTED] during the most recent quarter his current rates of behaviors are: aggression: 0.52/hour, disruption: 0.43/hour, disrobing: 0.00/hour, climbing: 0.00/hour and tantrum: establishing baseline.”
11. The social emotional/behavioral goal reflects, “By September 2023, given multiple opportunities for independence and differential reinforcement strategies, [student] will increase his independence with functional skills in school and appropriate classroom expected behaviors by 5% per quarter for a total of 20%.” The method of measurement is direct observation.
 - a. The IEP progress report developed on October 12, 2023, reflects “since [student] began attending [REDACTED] he has been able to tolerate peers and demands. More time is needed to establish a reliable baseline rate.”

12. The math calculation goal reflects, "By September 2024, given a template or blank worksheet, a written equation, a number line, and a set of like coins and like bills, [student] will skip count by fives, and tens, solve addition and subtraction problems up to 20, identify the place value of three-digit numbers, and count money with 80% accuracy across three sessions." The method of measurement is direct observation.
 - a. "Objective 1: Given blank order sheets [student] prompting and modeling to skip counting by fives to 50 we will continue to work on this skill. Objective 2 (achieved) given a blank worksheet, and no more than one prompt [student] was able to skip count by 50 with 80% accuracy. Objective 3: Given a written equation and/or a template with pictures {student] was able to solve addition problems to 20 with 80% accuracy within 10 trials with 1 to 2 verbal prompts. Objective 4: Given a written equation a template with pictures [student] was able to solve subtraction problems with 20 to 860% accuracy with 10 trials with 1-5 verbal prompt. Objective 5 not introduced in the 1st quarter."
13. The visual motor goal reflects, "By September 2024, [student] will improve his visual perceptual and visual motor skills needed for classroom activities to write with legibility with 75% accuracy." The method of measurement includes informal assessments, clinical observations, and observation records.
 - a. The IEP progress report developed on October 12, 2023, reflects "Obj. 1) [student] copies up to 5 word sentences with verbal, visual, and gestural cues. He demonstrates decreased appropriate spacing and at least 50% accuracy with baseline orientation. Obj. 2) [student] demonstrates the ability to copy most letters of the alphabet with mixed casing and fair eligibility. Obj.3) Given a visual baseline [student] demonstrates sizing within $\frac{3}{4}$ on at least 50% of trials."
14. The reading comprehension goal reflects, "By September 2024 given a previously read text at worksheet or list of questions a sequencing template graphic organizer and a list of details [student] will answer eight out of ten questions, sequence four events from a story from beginning to end and identify the main idea and details with 80% accuracy across three sessions as measured by observation record."
 - a. The progress report developed on October 12, 2023, reflects, "Objective 1: Given the previously read text a worksheet or a list of questions including multiple choice or short response [student] was able to correctly answer the questions corresponding to the story with 80% accuracy within 4 trials. He required up to 3 prompts in 3 out of 4 trials and was able to answer independently in 1 out of 4 trials. Objective 2: Given a previously read fiction text, a template with four boxes, a set of five pictures with captions, [student] will answer sequence the story from beginning to end with 50% accuracy within 10 trials with five of those trials prompted."
15. The written language mechanics goal reflects, "By September 2024 given an answer to a classroom based question a concrete or digital worksheet and a concrete or digital form [student] will write and /or type two-word answers to classroom based questions independently complete a personal information form with 80% accuracy across three sessions." The method of measurement is an observation record.
 - a. The IEP program support developed on October 12, 2023, reflects, "Objective 1: Given an answer to a classroom-based question a concrete or digital worksheet [student] was able to write and or

type a two-word response within 2 trials with 1 to 5 verbal prompts. Objective 2: Given a concrete or digital form [student] was able to write his full name with 1 to 2 verbal or gestural with 80% accuracy within 4 trials.”

January 3, 2024, IEP goals and progress reports

16. The IEP developed on January 3, 2024, reflects progress reports towards achieving annual IEP goals will be issued quarterly.
17. The speech and language articulation goal reflects, “By January 2025, [student] will increase his articulation skills by producing final consonants and multisyllabic words in sentences in 80% of opportunities, across three sessions.”
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
18. The fine motor skills goals reflect, “By January 2025, [student] will improve his fine motor and bilateral coordination skills needed for classroom and computer-based activities with 60% accuracy in 3 out of 4 trials.”
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
19. The speech and language pragmatic language goal reflects, “By January 2025, [student] will increase his social pragmatic language skills using total communication methods (e.g., speech generating device, verbalizations, picture symbols) by initiating and responding to communication partners and using self-advocacy strategies in 80% of opportunities, across three sessions.”
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
20. The speech and language receptive language goal reflects, “By January 2025, [student] will increase his receptive language skills by making predictions, retell details from a narrative and answer inferential questions in 80% of opportunities, across three sessions.”
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
21. The speech and language expressive language goal reflect, “By January 2025, [student] will increase his expressive language skills by describing items providing at least two semantic features, use a 2-4 word utterance using spatial concepts, and categorize and describe items in 80% of opportunities.”
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
22. The reading vocabulary goal reflects, “By January 2025, given an orally read sentence including a prepositional phrase and a set of manipulatives, [student] will read the sentence, correctly manipulate the objects corresponding to the prepositional phrase and identify the prepositional word in 3 out of 5 trials with no more than 2 verbal prompts as measured by classroom-based assessments.”
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.

23. The math calculation goal reflects, "By January 2025, given a template or blank worksheet, a written equation, a number line, and a set of like coins and like bills, [student] will skip count by fives, and tens, solve addition and subtraction problems involving money, and determine if he can make a purchase in 3 out of 5 trials with no more than 2 verbal prompts as measured by work samples."
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
24. The visual motor goal reflects, "By January 2025, [student] will improve his visual perceptual and visual motor skills needed for classroom activities to write with legibility with 60% accuracy."
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
25. The reading comprehension goal reflects, "By January 2025, given an instructional level text, visuals/picture cues, and multi-modal communication strategies, [student] will verbally identify the problem, identify the solution and sequence 5-7 events with 1 verbal prompt in 3 out of 5 trials as measured by classwork."
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
26. The written language mechanics goal reflects, "By January 2025, given an answer to a classroom-based question, a concrete or digital worksheet, and a concrete or digital form, [student] will write and/or type four-word answers to classroom-based questions and independently complete a personal information form in 3 out of 5 trials with no more than 2 verbal prompts as measured by classwork samples."
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
27. The self-management goal reflects, "By January 2025, given behavioral management and differential reinforcement strategies, [student] will decrease his classroom inappropriate behaviors by 40% from baseline rates. Current baseline rates are: Aggression: 2.83 times/day, Disruption: 1.97 times/day, Disrobing: 0.00 times/day, Dangerous Behavior: 0.00 times/day."
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.
28. The self-management goal reflects, "By January 2025, given multiple opportunities for independence and differential reinforcement strategies, [student] will increase his independence with functional skills in school and appropriate classroom expected behaviors by 20%. Baseline to be re-established during Q3 of school year due to classroom change and other environmental manipulations potentially impacting responding."
 - a. The progress report developed on January 5, 2024, reflects the goal has not yet been introduced.

Prior Written Notices

29. Following the student's enrollment on September 12, 2023, the Prior Written Notices (PWN) were developed as a result of IEP team meetings on September 26, 2023, November 20, 2023, December 07, 2023, and January 4, 2024:

Allegations #2 and #3: **Provision of behavioral and academic supports and development of the IEP to address behavioral and academic needs**

FINDINGS OF FACTS:

30. The IEP in effect in July 2023 was developed on August 18, 2022. The IEP reflects the following areas are impacted by the disability: math calculation, reading comprehension, reading vocabulary, speech and language articulation, speech and language expressive language, speech and language pragmatics, speech and language receptive language, written language mechanics, social/emotional/behavioral, fine motor, independent community living - dressing and grooming, and visual motor. The IEP requires two weekly sessions of occupational therapy (OT) for thirty minutes per session outside of the general education setting. The IEP requires thirty minutes per month of indirect OT consult. The IEP requires speech/language (SLP) therapy as a related service four times per week for 30 minutes per session. The IEP requires assistive technology device(s) and service(s) to support communication needs. The IEP requires instructional and assessment accessibility, and accommodations features. The IEP also requires specific accommodations for an emergency evacuation.

The IEP requires supplementary aids, services, program modifications and supports to support instructional, program modification, social/behavior needs:

- a. daily - low-tech visual supports, have student repeat and/or paraphrase information, strategies to initiate and sustain attention, provide frequent changes in activity or opportunities for movement, environmental aids (i.e. classroom, acoustics, hearing, ventilation), adult support;
- b. weekly- altered/modified assignments, advance preparation for schedule changes, home-school communication, picture schedule- weekly; and
- c. monthly – OT consult.

31. The IEP in effect on September 26, 2023, reflects the following areas are impacted by the disability: math calculation, reading comprehension, reading vocabulary, speech and language articulation, speech and language expressive language, speech and language pragmatics, speech and language receptive language, written language mechanics, self-management, fine motor, independent community living - dressing and grooming, and visual motor. The IEP requires 27 hours of instruction per week outside of the general education setting. The IEP requires two weekly sessions of OT for 30 minutes per session outside of the general education setting. The IEP requires SLP therapy as a related service four times per week for 30 minutes per session. The IEP also requires specific accommodations for an emergency evacuation. The IEP also requires a BIP.

The IEP requires supplementary aids, services, program modifications and supports to address instructional, behavioral, physical/environmental supports, and program modification needs:

- a. daily - low tech visual supports, check for understanding, and picture schedule, writing utensils and adaptations, verbal praise, low-tech visual supports, check for understanding, 2:1 additional adult support, adapted writing/typing surfaces, and augmentative communication system;
- b. weekly- alternative methods of demonstrating skill mastery, advance preparation for schedule changes, home-school communication system, and first-then board; and
- c. monthly – behavioral consult.

32. The IEP developed on January 3, 2024, reflects the following areas are impacted by the disability: math calculation, reading comprehension, reading vocabulary, speech and language articulation, speech and language expressive language, speech and language pragmatics, speech and language receptive language, written language mechanics, self-management, fine motor, independent community living, dressing, grooming, and visual motor. The IEP requires 27 hours of instruction per week outside of the general education setting. The IEP requires two weekly sessions of OT for 30 minutes per session outside of the general education setting. The IEP requires SLP as a related service four times per week for 30 minutes per session. The IEP also requires specific accommodations for an emergency evacuation. The IEP requires a BIP.

The IEP requires supplementary aids, services, program modifications and supports to address instructional, behavioral, physical/environmental supports, and program modification needs:

- a. daily - low tech visual supports, check for understanding, and picture schedule, writing utensils and adaptations, verbal praise, low-tech visual supports, check for understanding, 2:1 additional adult support, adapted writing/typing surfaces, augmentative communication system, dismissal protocol, toileting protocol, additional adult support 2-1, opportunities to move throughout the school day, and strategies to initiate and sustain attention.
 - b. weekly- alternative methods of demonstrating skill mastery, advance preparation for schedule changes, home-school communication system, and first then board; and
 - c. monthly – behavioral consult.
33. The one-to-one attendance record/log reflects the daily provision of the 2- 1 adult support, since September 12, 2023.
34. The following are built into the student’s programming/day at [REDACTED] provision of a visual schedule, opportunities for movement, social interaction skills, access to sensory objects, support with attention, communication from school to home through the use of class-dojos.
35. There is documentation of a school wide positive reinforcement system. The requirements related to the student’s IEP to earn a gem include: completing work during scheduled activity, being respectful, raising your hand to speak, asking for help, and using a calm voice.
36. The BCBA log reflects indirect service on November 20, 2023, direct service on October 31, 2023, September 22, 2023.
37. There is documentation of a “first then board,” and of low-tech communication support since July 2023.
38. There is no documentation of areas of need/concern that the IEP does not address since July 2023.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Fact #30, #31, and #32, MSDE finds that the BCPS did not ensure that an IEP was timely reviewed within one year from August 18, 2022, in accordance with 34 CFR §300.324. The IEP team did

not review and revise the student's IEP until September 26, 2023. Therefore, MSDE finds that a violation occurred with respect to this aspect of the allegation.

Based on the Findings of Fact #31, #32, and #38, MSDE finds that the BCPS has ensured that the IEP developed for the student addresses his academic needs, since September 26, 2023, in accordance with 34 CFR §300.324. MSDE finds that a violation did not occur with respect to this aspect of the allegation.

Based on the Findings of Fact #30 through #38, MSDE finds that the BCPS provided support of a dedicated adult assistant and other behavioral supports, as required by the IEP, in accordance with 34 CFR §§300.101 and .323 since the student started on September 12, 2023. Therefore, MSDE finds that a violation did not occur with respect to this aspect of 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.

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, Special Education Complaint Investigator, Family Support and Dispute Resolution Branch, MSDE, 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.

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:

Student- Based:

- a. Ensured that the student's progress towards obtaining annual speech and language articulation, speech and language expressive language and speech and language pragmatics IEP goals are measured in the manner required by the IEP; and
- b. Convene an IEP meeting for the purpose of determining the impact of the violation regarding the untimely review of the IEP from August 17, 2023, through September 26, 2023. The IEP team must discuss if the violation 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

² 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.

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.

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.

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 and 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]
Sarah Denney, Complaint Investigator, MSDE
Dr. Paige Bradford, Section Chief, Specialized Instruction, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE