

February 15, 2024

REDACTED

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

RE: [REDACTED]
Reference: #24-087

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. 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 support of a dedicated adult assistant and other behavioral supports, as required by their IEP, since July 2023, in accordance with 34 CFR §§300.101 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.

BACKGROUND:

The student is 11 years old and attends [REDACTED]. He is currently identified as a student with Autism under the IDEA and has an Individualized Education Program (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 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 behavioral self-management goal states “By May 2024, [student] will increase his in-class participation by refraining from previously demonstrated learned helplessness behavior (e.g. Impulsively asked for help, not attempting to work, shutting down), he will try to solve the problem in different ways (e.g. look at the example, re-read the directions, ask a friend) before asking the teacher for help and will ask no more than 3 questions during 10 minutes for 2 out of 3 independent work periods.” The method of measurement is the observation record.
 - a. The progress report developed on October 12, 2023, reflects the following information regarding the student’s progress toward achieving the self-management goal. “6 out of 10 trials: [student] displays these skills in specific contexts (e.g., settings, class subjects). Generalization of skills across contexts with increased independence through prompt fading is the current focus.”
 - b. The IEP progress report developed on January 5, 2024, reflects the following information regarding the student’s progress toward achieving the self-management goal. “The actual results achieved was 6 out of 10 trials. The student’s performance remains variable. He is less likely to follow directions to engage in positive behaviors and work task in group learning situations versus independent seat work and when he is interacting or playing with his peers. He is more likely to ask for help when he has concrete questions a specific question about an assignment than in social situations (e.g. if a pair is bothering him). Generalization of these skills to these contexts will continue over the next marking period.”
3. The social emotional goal states “By June 2024, during a frustrating moment that interrupts a school activity where he previously displayed emotional dysregulation (yelling, cursing, elopement, shutting down, and physical or verbal aggression), [student] will utilize a pre-taught coping strategy (ask for help, deep breathing, stress ball, etc.) then communicate his feelings appropriately, and return to the activity within 5 minutes for 4 out of 5 opportunities. Baseline: 15 minutes.” The method of measurement is the observation record.
 - a. The progress report developed on October 12, 2023, reflects the following information regarding the student’s progress toward achieving the social emotional goal. “The actual results achieved was 4 out of 5 trials: Obj 1: (Achieved) When given 1 prompt, [student] will use 1 pre-taught self expression strategy (I-message, feelings chart, visuals etc.) to communicate his needs appropriately in greater than 4 out of 5 opportunities. Obj. 2: (Achieved) During role play or when given scenarios, [student] will identify 1 appropriate coping strategy to use for 4 out of 4 opportunities.”²

² The progress reports, developed on October 12, 2023, reflects two reporting narratives for this goal. The findings of fact 3a is the narrative written by the former Special Education teacher. The findings of fact 3b is the narrative developed by the school Social Worker. The IEP team confirmed that the narrative developed by the Social worker, is the correct report of progress.

- a. The progress report created on October 12, 2023, reflects the following information regarding the student's progress towards achieving the written language expression goal. The actual results achieved are 2 out of 3 trials. (Achieved). When given a nonfiction writing prompt, a partially completed graphic organizer and temporal word bank, [student] will record complete sentences recounting three on- topic facts that use three temporal words first (e.g., first, then) in 2 out of 3 targeted trials. (Achieved). When given a nonfiction writing prompt, graphic organizer, an temporal word anchor chart, [student] will compose a written response including a topic sentence, three on topic facts, three temporal words (e.g., first, next, last) and a conclusion sentence in 2 out of 3 targeted trials.
 - b. The IEP progress report developed on January 5, 2024, reflects the following information regarding the student's progress towards achieving the written language expression goal. "Objective 1: (Achieved) When given a nonfiction writing prompt, a partially completed graphic organizer and temporal word bank, student was able to record complete sentences recounting 3 on topic facts that used three temporal words first then in two out of three targeted trials. Objective 2 (Achieved) When a nonfiction writing prompt, graphic organizer, and temporal word anchor chart, student was able to compose a written response including a topic sentence, three topic facts, 3 temporal words, first next last, and the conclusion sentence in two out of three targeted trials. When given a topic prompt, student was able to compose an informative explanatory written response that includes one topic sentence, 3 facts, one conclusion sentence and temporal words, in two out of three trials. Student requires prompting to stay on task and use his graphic organizer to transfer his ideas into a paragraph."
6. Written Language Expression goal states "By May 2024, after direct instruction, opportunity for practice, and fading prompts, [student] will demonstrate command of the conventions of standard English spelling by spelling 4 letter words with 80% (8 out of 10 words) or higher accuracy as measured by teacher records and observations in 2 out of 3 targeted trials." The method of measurement is the observation record.
- a. The progress report created on October 12, 2023, reflects the following information regarding the student's progress toward achieving the written language expression goal. The actual result achieved is 2 out of 3 trials:" Obj 1: (Not Achieved) After explicit instruction and opportunities to be proactive, [student] will be able to spell CVC words containing with 80% accuracy in 2 out of 3 trials. Obj 2: (Achieved) After explicit instruction and opportunities to practice, student will be able to spell one syllable words containing one diagraph blend with 80% accuracy in 2 out of 3 trials. Obj 3:(Achieved) After explicit instruction and opportunities to practice [student] will be able to spell one syllable words following the CVE pattern with 70% accuracy in 2 out of 3 trials. Obj 4:(Not Achieved) After explicit insurrection and opportunities to practice, [student] will be able to one syllable words containing one vowel team with 60% accuracy in 2 out of 3 trials. [student] did not meet objectives 1 and 4 for several reasons. He struggles with R-controlled vowels (e.g., 'ar,' 'er,' 'ir,' 'or,' 'ur'). Another area [student] struggled with use of silent E constants (e.g., 'bale,' 'ride') - troubling recognizing silent E contents, impacted his spelling accuracy."
 - b. The IEP progress report developed on January 5, 2024, reflects the following information regarding the student's progress toward achieving the written language expression goal. student achieved the goal in 12 out of 13 trials. "Objective one achieved student correctly spelled CVC words with 80% accuracy or higher in three out of three trials. Objective 2 achieved

after explicit instruction and opportunities to practice, student was able to spell 1 syllable words containing 1 diagraph blend with 80% accuracy in 2 out of 3 trails. Objective 3 achieved after explicit instruction and opportunities to practice student was able to spell 1 syllable words following the CVE pattern with 70% accuracy and two out of three trials. Objective 4 not achieved student spelled one syllable words in six out of six trials but needed staff support.

Student has shown proficiency in spelling shorter words and 12 out of 13 trials with some staff support.”

7. Speech and Language Pragmatics goal states “By May 2024, given a conversation on a non-preferred topic (visual picture, written on dry erase board, or verbally shared) with peers, [student] will demonstrate active listening to the groups conversation by making two on topic comments and asking one on topic question for 3 topics presented. Baseline: Given a conversation on a non-preferred topic with one adult, [student] is demonstrating active listening to the group’s conversation by making two on topic comments and asking 1 on topic question for 1 out of 3 topics presented.” The method of measurement is the observation record.
 - a. The IEP progress report developed on October 12, 2023 reflects the following information regarding the student’s progress toward achieving the Speech and Language Pragmatic goal. “Obj 1) not yet introduced Obj 2) 1/3 opportunities independent, 2/3 with 1-2 verbal prompts, 1x per topic Obj 3) not yet introduced”;
 - b. The IEP progress report developed on January 5, 2024, reflects the following information regarding the student’s progress toward achieving the Speech and Language Pragmatic goal “Obj 1) ¼ opportunities given 1 verbal prompt Obj 2) 1/3 opportunities independent, 2/3 with 1-2 verbal prompts, 1x per topic Obj 3) not addressed this quarter”
8. The Speech and Language pragmatics goal reflects “May 2024, [student] will appropriately engage and sustain attention in an interaction with adults and peers by exchanging 3 appropriate/on-topic verbal or non-verbal responses in 2 out of 3 targeted trials. The method of measurement is the observation record.
 - a. The IEP progress report developed on October 12, 2023, reflects the following information regarding the student’s progress toward achieving the Speech and Language Pragmatic goal. “On Obj 1) a preferred topic – 3/3 opportunities independently Obj2) not addressed Obj 3) On preferred topic 2 responses in ¾ opportunities with minimal prompts.”
 - b. The IEP progress report developed on January 5, 2024, reflects the following information regarding the student’s progress toward achieving the Speech and Language Pragmatic goal. The goal was achieved in 2 out of 3 trials. Obj 1) on a preferred topic – 3/3 opportunities independently Obj 2) On a preferred topic 2/3 opportunities given 1 verbal prompt, Obj 3) On preferred topic 3 responses I n3/4 opportunities with minimal prompts.”
9. The self-management goal reflects “By May 2024, [student] will comply to whole-class direction given by the lead teacher with no more than 1 visual/verbal prompt within 3 minutes in 2 out of 3 targeted trials. Baseline: 7 minutes.” The criteria is 2 out of 3 trials. The method of measurement is the observation record.
 - a. The IEP progress report developed on October 12, 2023, reflects the following information regarding the student’s progress toward achieving the self management goal. In 5 out of 10 trials

- the student “displays this scale during instruction in his home room, but this skill has not generalized to math and reading classes across different instructors. Generalization to all context and increased independence through prompt fading are the current focus.”
- b. The IEP progress report developed on January 5, 2024, reflects the following information regarding the student’s progress toward achieving the self-management goal. In 5 out of 10 trials “this skill is being generalized to [student’s] new teacher and new classroom aide. Performance is variable across instructor and subject.
10. The Social Interaction skills goals reflects “By May 2024, with the support of visual/verbal prompts, [student] will maintain an arm’s length distance between self and others (peers and school staff) during play and/or conversation across all settings during 2 out of 3 ten-minute trials.” The criteria reflects 2 out of 3 trials.” The method of measurement is the observation record.
- a. The IEP progress report developed on October 12, 2023, reflects the following information regarding the student’s progress towards achieving the social interaction skills goal. “The student achieved this goal in a small group setting such as lunch branch, indoor recess, rewards, etc. The progress report reflects this goal was achieved in 2 out of 3 trials.”
 - b. The IEP progress report developed on January 5, 2024, reflects the following information regarding the student’s progress towards achieving the social interaction skills goal. The goal was achieved. “With the support of visual/verbal prompts, [student] was able to maintain an arm’s length distance between self and others (peers and school staff) during play and/or conversation across all settings during 2 out of 3 ten-minute trials.”

DISCUSSION/CONCLUSIONS:

The Individualized Education Program (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

Report of Progress. An IEP shall include how a parent is to be regularly informed of the: (a) Student’s progress toward the annual goals; and (b) Extent to which the progress is sufficient to enable the student to achieve the goals within a year. COMAR 13a.05.01.09

Based on the Finding of Facts #2 though #6, #9, and #10, MSDE finds BCPS has ensured that the student’s progress towards obtaining annual Individualized Education Program (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.

Based on the Finding of Facts #7 and #8, MSDE finds BCPS has not ensured that the student’s progress towards obtaining mastery of annual the Speech and Language pragmatic goals was measured in the manner required by their IEP, since July 2023, in accordance with 34 CFR §§300.320 and .323.

Allegations #2 and #3:

Provision of Dedicated Aide and Behavioral supports and Development of IEP to address academic needs

FINDINGS OF FACTS:

11. The IEP in effect in July 2023 reflects Academic - Speech and Language Pragmatics, Academic- Written Language Expression, Behavioral - Self-management, Behavioral Social Emotional/Behavioral, and Behavioral - Social Interaction Skills. The IEP requires implementation of a behavior intervention plan (BIP). The IEP requires goals in the following domains: Social emotional /behavioral, social interaction skills, Speech and Language pragmatics, Written Language expression, and Self-management. Specially designed instruction outside of the general education classroom is required for twenty-nine hours per week. Counseling as a related service is required once a week for thirty minutes outside of the general education classroom, and Speech as a related service is required once per week for thirty minutes outside of the general education classroom.

The IEP requires daily supplementary aids, services, program modifications and supports - writing supports, adult support, communication supports, behavior supports, supports for social interactions, attention, and behavior, home school communication system, provide frequent changes in activities or opportunities for movement, advance preparation of schedule, crisis intervention, sensory strategies. The IEP also requires monthly supplementary aids, services, program modifications and supports, a Speech/Language Pathologist consult, and an Occupational therapist consult.

12. The one-to-one attendance record/log reflects the daily provision of a dedicated aide since July 6, 2023, as required by the IEP.
13. 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, and support with attention.
14. The BIP is required to address the student's verbal aggression and elopement. The BIP includes: strategies that address the Function of the Behavior, Skill Development, Strategies to address the contributing factors of the behavior, strategies to minimize the triggers of the behavior, positive strategies (rewards and reinforce appropriate replacement behaviors), consequence strategies for the problem behavior, staff development, and response plan (if needed).
15. There was an IEP team meeting convened on August 1, 2023, to amend the student's IEP.
16. The prior written notice (PWN) reflects the decisions made on August 1, 2023. The IEP team met for the purpose of amending the IEP. The IEP team proposed and agreed to: "coordination of present level and goal areas so they match (no information removed, just some titles changed).The IEP team agreed to the removal of restraint and seclusion from BIP, increase in supplementary aids and services to forty hours per week "to match forty hours of programming at [REDACTED]." The team also updated providers of supplementary aids and services "to coincide with the providers in the new placement." ESY is selected as "No" because the student is in an 11-month program. counseling once per week for thirty minutes, SLP for thirty minutes per week, and twenty-nine hours of classroom instruction per week and change in placement to [REDACTED]. The PWN reflects the team discussing the need for OT or PT and rejected the need for additional assessments at this time.

17. There is documentation of the provision of weekly counseling services as required by the IEP. The student was absent and did not receive services on August 30, 2023, September 27, 2023, and November 1, 2023. The provider was absent on July 24, 2023, and a make-up service was completed on September 18, 2024.
18. There is no documentation of areas of need/concern that the IEP does not address.

DISCUSSION/CONCLUSIONS:

Based on the Findings of Fact #11 through #15, 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 July 2023. Therefore, MSDE finds that a violation did not occur with respect to this allegation.

Based on the Findings of Fact #11 and #18, MSDE finds that the BCPS has ensured that the IEP developed for the student addresses his academic needs, since July 2023, in accordance with 34 CFR §300.324. Therefore, MSDE finds that a violation did not occur 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.³ 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.⁴ Ms. Denny can be reached at (410) 767-7770 or by email at sarah.denney@maryland.gov.

Student- Based

- a. Ensured that the student's progress towards obtaining annual Speech and Language Pragmatics IEP goals was measured in the manner required by the IEP; and
- b. Convene an IEP meeting for the purpose of determining the impact of the violations. The IEP team must discuss if the violation had a negative impact on the student's ability to benefit from the

³ 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.

⁴ MSDE will notify the public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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.

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

AH/ra

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