

March 22, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Allison Myers
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 W Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #24-128

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 January 22, 2024, MSDE received a complaint from Ms. [REDACTED], “the complainant,” on behalf of her daughter, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public School (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 did not ensure that the Individualized Education Program (IEP) team convened to review the student’s IEP during December 2023 in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
2. The BCPS has not ensured that the parent was provided with monthly progress reports toward achieving the annual IEP goals since October 2023, in accordance with 34 CFR §300.320.

BACKGROUND:

The student is 11 years old and is identified as a student with multiple disabilities under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDING OF FACTS:

1. The student's IEP, in effect at the start of the 2023- 2024 school year, was developed on December 12, 2022, with a projected annual review date of December 12, 2023. The IEP requires that the parent be notified monthly of the student's progress toward the achievement of the annual IEP goals.
2. The BCPS invited the parent to attend the student's annual IEP review meetings for the student, scheduled on November 1, 2023, November 3, 2023, December 4, 2023, December 11, 2023, January 4, 2024, January 8, 2024, January 23, 2024, and February 6, 2024.
3. The complainant proposed the following dates in response to the BCPS invitations: September 26, 2023, December 8, 2023, January 4, 2024, and January 18, 2024.
4. On October 9, 2023, the complainant received a copy of the report of the student's September 2023 progress toward the achievement of the annual IEP goals.
5. On January 22, 2024, the BCPS provided the complainant with the parent notification, a copy of the draft IEP, and additional documents to be discussed at the IEP meeting scheduled for February 6, 2024, to update the annual IEP and discuss ESY services. The complainant also received a copy of the report of student's October 2023 and December 2023 progress toward the achievement of the annual IEP goals.
6. On February 6, 2024, and February 27, 2024, the IEP team met to conduct the student's annual IEP review. To date, the IEP team has not concluded the annual review due to the lengthy discussions during the meetings.
7. On March 13, 2024, the complainant received an email from the BCPS school staff stating there was insufficient data for the month of February 2024 due to the student's lack of attendance.

CONCLUSION:

ALLEGATION #1: ANNUAL REVIEW

Based on Finding of Fact #1, to #3, #5, and #6, MSDE finds that the BCPS did not ensure that the IEP team convened to review the student's IEP during December 2023 in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred concerning this allegation.

ALLEGATION #2: PROVISION OF MONTHLY PROGRESS REPORTS

Based on Finding of Fact #1, #4, #5, and #7, MSDE finds that the BCPS did not ensure that the parent was consistently provided with monthly progress reports toward achieving the annual IEP goals since October 2023, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation has occurred concerning this allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a State complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR §300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner. 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. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action. Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov.

Student-Specific

MSDE requires the BCPS to provide documentation by May 31, 2024, of the following actions:

- Provide the complainant with the student's progress toward the achievement of the annual IEP goals as required by the IEP; and
- Convene an IEP team meeting to complete the student's annual IEP review and determine whether the violations related to a delay in reviewing the student's IEP at least annually, and the provision of the student's progress toward the achievement of the annual IEP goals, had a negative impact on the student's ability to benefit from the education 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.

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

School-Based

MSDE requires the BCPS to provide documentation by May 31, 2024, of the steps it has taken to ensure that the staff at [REDACTED] properly implements the requirements for the review of the student's IEP at least annually and the provision of the student's progress toward the achievement of the annual IEP goals as required by their IEP under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance.

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/sj

c: Dr. Myriam Rogers, Superintendent, BCPS
Charlene Harris, Supervisor of Compliance, Special Education, BCPS
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS
[REDACTED], [REDACTED], Principal, BCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicole Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE