

March 22, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]

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

RE: [REDACTED]  
Reference: #24-131

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 24, 2024, MSDE received a complaint from Ms. [REDACTED], hereafter, “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 Individualized Education Program (IEP) addresses the student's needs arising out of virtual speech and language services, in accordance with 34 CFR §300.324 since the start of the 2023-2024 school year.
2. The BCPS has not ensured that the IEP team addressed parental concerns regarding virtual speech and language services since October 2023, in accordance with 34 CFR §300.324.
3. The BCPS has not ensured that the student has been consistently provided with speech and language services, as required by the IEP, since the start of the 2023-2024 school year, in accordance with 34 CFR §300.101 and .323.

**BACKGROUND:**

The student is 11 years old and is identified as a student with an Other Health Impairment (OHI) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

1. The IEP in effect at the start of the 2023-2024 school year was developed on May 24, 2023. The IEP reflects the areas impacted by the student's disability are "self-management (executive functioning, organization, attention, etc.), speech and language pragmatics, written expression, and bimanual skills/bilateral (two-handed) coordination. The IEP requires 30 minutes per week of speech and language services outside of the general education setting. The IEP further requires accommodations that include frequent eye contact/proximity control, manipulatives and/or sensory activities to promote listening and focusing skills, adult support and strategies to initiate and sustain attention."

The student's present level of academic achievement and functional performance (PLAAFP) in the area of Self-Management [e.g., executive functioning, organization, attention, etc.] reflects that the student is performing below grade level expectations in the area of executive functioning. The student needs reminders for focus and organization, teacher check ins to remain on task and to complete the task with accuracy (May 2023), struggles managing his attention during testing, and appears fidgety and restless during examinations (November 2022).

The student's PLAAFP in speech and language pragmatics reflects that the student is performing below age expectations. The PLAAFP further reflects the student's pragmatic language as a concern, it prevents him from accessing social skills in the educational environment. The student can be anxious, will fixate on a problem, or become easily distracted by the environment and the people around him. His attention is a variable that decreases his accuracy levels and impacts his learning. The student is constantly fidgeting. He is able to answer questions and talk about topics of interest but struggles to ask questions to his conversational partner unless prompted and questions are modeled. The student's "weakness with expressive and pragmatic language impacts his ability in turn taking, topic maintenance, conversational rules, and non-verbal language."

The student's pragmatic language goal states "By May 2024, given no more than two redirections, [the student] will tune into a situation and ask and answer questions in conversation by making connected comments, asking questions, or asking for clarification." The IEP requires that the progress towards the achievement of the annual goal be measured using informal procedures and clinician data in 4 out of 5 trials.

2. On October 4, 2023, the IEP team met to review and revise the student's IEP. The Prior Written Notice (PWN) developed after the meeting reflects that the IEP team proposed to review the student's supports and services to determine if the IEP required revisions. The IEP team determined based upon his current progress that the student's IEP did not require revisions. The complainant expressed concerns regarding the student's overall grades, turning in of homework, the student's comprehension, use of his locker, and the broken hinge on the student's device. The complainant shared that a ticket was submitted for the student's device. The school team shared they were waiting for more devices to replace the student's broken device. The speech and language provider shared that the student is very attentive and willing to participate in sessions. There is no documentation that the complainant raised concerns regarding the student's virtual speech and language services.

3. On October 23, 2023, the IEP team met to review and revise the student's IEP. The PWN developed after the meeting reflects that the IEP team proposed and accepted revisions to the student's instructional and testing accommodations and the student's supplementary aids, services, and program modifications. The complainant shared that there was progress since the last IEP team meeting but would like to see some of the tools used added to the student's IEP. The complainant expressed concerns with the speech and language services being delivered virtually because the student's camera on his device is not functioning. A repair request was previously made to technology, but the device had not been repaired nor had the student received a new device. The BCPS staff shared with the complainant by telephone after the meeting, but documented in the PWN, that the speech facilitator has a device that the student uses during the virtual speech sessions.
4. On October 23, 2023, the complainant emailed the BCPS speech pathologist and inquired as to the provision of speech services virtually. The complainant shared that the student benefits from 1:1 instruction and is also having issues with his device. The complainant further shared that she was aware the student was using a loaner device during the sessions.
5. On October 23, 2023, the BCPS speech pathologist emailed the complainant with a time to speak by telephone. There is documentation that after the call the complainant was provided with contact information for the BCPS speech and language department.
6. On October 31, 2023, BCPS provided a letter to the complainant regarding contact information for the speech pathologist.
7. There is documentation that on October 31, 2023, the BCPS Office of Related Services supervisor observed the student during speech services. The documentation reflects the speech facilitator was present and the student was appropriately engaged.
8. There is documentation that on November 1, 2023, the BCPS Office of Related Services supervisor spoke to the complainant by telephone and shared that the student's needs were being met during the virtual speech and language services.
9. On November 3, 2023, the progress reported towards the achievement of the annual pragmatic language goal was not reported using the evaluation method as required by the IEP. The progress reported reflects the student is making sufficient progress to meet the goal. "While in therapy sessions [the student] will stay on task and answer hypothetical questions and answer questions from his peers given moderate clinical cues and reminders with about 70% accuracy."
10. There is documentation that on November 8, 2023, the student was provided with a new device.
11. On November 27, 2023, the IEP team met to review and revise the student's IEP. The PWN developed after the meeting reflects that based upon the topics the complainant requested to discuss the IEP did not require revision. The complainant shared concerns that the student's report card grades were different from the school's learning management system. The complainant expressed concerns about ungraded assignments from the first quarter, the student's schedule change, the presence of a counselor when the student is disciplined by the administrators, and the use of a homework sheet designed by the complainant instead of the student's planner. The BCPS administrator addressed each of the complainant's concerns. The IEP team discussed the use of

the homework sheet versus the planner and determined that the student would continue to use the planner. The speech and language provider shared that the student is participating in sessions with redirection and his sessions were changed from during his Art class to another timeslot. The student enjoys Art and does not want to be pulled out for speech services.

12. The BCPS speech and language logs reflect that the provider was absent/unavailable on 8/29/23, 9/5/23, 9/19/23, 11/15/23, 12/6/23, and 2/7/24. There is documentation that missed services from 8/29/23 and 9/5/23 were made up in February 2024.
13. On February 5, 2024, the progress reported towards the achievement of the annual pragmatic language goal was not reported using the evaluation method as required by the IEP. The progress reported reflects the student is making sufficient progress to meet the goal. "In therapy sessions with his peers, [the student] stays on task while reading or playing an online game with moderate clinical redirection with about 75% accuracy. When [the student] is engaged in a therapy task, he appears excited and willing to participate, listen to his peers, and ask relevant questions, given clinical redirection as needed."

#### **CONCLUSIONS:**

##### **Allegation #1:**

##### **IEP Addresses Speech and Language Needs**

Based upon Findings of Fact #1, #9, and #13, MSDE finds that the BCPS has ensured that the IEP addresses the student's needs arising out of virtual speech and language services, in accordance with 34 CFR §300.324 since the start of the 2023-2024 school year. Therefore, this office does not find that a violation occurred concerning this allegation.

##### **Allegation #2:**

##### **IEP Team Addressing the Parents Concerns**

Based on Findings of Fact #2 through #8, #10, and #11, MSDE finds that the BCPS has ensured that the IEP team addressed parental concerns regarding virtual speech and language services since October 2023, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred concerning this allegation.

##### **ALLEGATION #3:**

##### **Provision of Speech and Language Services**

Based on Findings of Fact #1 and #12, MSDE finds that the BCPS has not ensured that the student has been consistently provided with speech and language services, as required by the IEP, since the start of the 2023-2024 school year, in accordance with 34 CFR §300.101 and .323. Therefore, this office finds that a violation occurred concerning this allegation.

#### **ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

##### **Progress Reporting**

The BCPS must ensure the provision of written information to parents about the student's progress towards their IEP goals. The student's progress toward achieving the annual goals must be measured as required by the IEP. (34 CFR §§300.101, .320, and .323).

Based on the Findings of Fact #1, #9, and #13, MSDE finds that the BCPS did not ensure that the reports of progress towards the achievement of the pragmatic language goal on November 9, 2023, and February 4, 2024, were measured in the manner required by the IEP, in accordance with 34 CFR §§300.320 and .323. Therefore, this office finds that a violation occurred.

### **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 non-compliance is corrected in a timely manner.<sup>1</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 Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Ms. Barmat can be reached at (410) 767-7770 or by email at [Alison.Barmat@maryland.gov](mailto:Alison.Barmat@maryland.gov).

### **Student Specific**

MSDE requires the BCPS to provide documentation by May 31, 2024, that the school system has taken the following actions:

- Provide the student with speech and language services in accordance with his IEP;
- Provide documentation that the missed speech and language services have been made up; and
- Convene an IEP team meeting to determine if the failure to properly report the student's progress had a negative impact on the student's ability to benefit from the education program. If the IEP 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 one year of the date of this Letter of Findings.

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

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<sup>1</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>2</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.

### School-Based

MSDE requires the BCPS to provide documentation by May 31, 2024, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation of related services, and proper reporting of progress towards the achievement of the student's annual IEP goals under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance. Monitoring must include a review of at least 15 randomly selected student records to review for the provision of speech and language services and proper reporting of progress. The monitoring report must be submitted to MSDE on or before May 31, 2024.

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/tg

c: Dr. Myriam Rogers, Superintendent, BCPS  
Conya Bailey, Director, Special Education, BCPS  
Dr. Jason Miller, Compliance Coordinator, BCPS  
Charlene Harris, Supervisor, Special Education Compliance, BCPS  
Norma Villanueva, Compliance Specialist, BCPS  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Dr. Paige Bradford, Section Chief, Program Support and Technical Assistance, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE