

May 3, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Denise Mabry
Director of Compliance & Due Process
Baltimore City Public Schools
200 E. North Avenue, Room 204 B
Baltimore, Maryland 21202

RE: [REDACTED]
Reference: #24-157

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 March 5, 2024, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her grandson. In that correspondence, the complainant alleged that the Baltimore City 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 developed and implemented an Individualized Education Program (IEP) that addresses the student's identified academic needs since March 2023, in accordance with 34 CFR §§300.323 -.324.
2. The BCPS has not ensured that the IEP team addressed parental concerns about the student’s academic needs since March 2023, in accordance with 34 CFR §300.324.

BACKGROUND:

The student is 16 years old and is identified as a student with an Other Health Impairment (OHI) under the IDEA. He attends the [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The IEP in effect on March 2023 was developed on February 23, 2023. The IEP reflects that the areas impacted by the student's disability are math calculation, math problem solving, reading comprehension, written language expression, and self-management. The IEP requires three one-hour sessions of specialized instruction in English/Language Arts, provided by a special education classroom teacher in a segregated special education setting; three one-hour sessions of specialized instruction in math weekly, in a segregated special education setting provided by a special education classroom teacher; and two one-hour sessions of classroom instruction weekly in the general education setting provided by the general education teacher.

The Present Level of Academic Achievement and Functional Performance (PLAAFP) lists the student as being on the following instructional grade levels:

- Reading Phonics - 3.5
- Reading Comprehension - 4.9
- Math Calculation - 4.1
- Math Problem Solving - 4.7
- Written Language Expression - 4.5
- Self-management - none provided

The IEP reflects the student should receive the following accessibility features and accommodations:

- General administration of directions clarified, read aloud, and repeated as needed;
- Graphic organizer;
- Small group;
- Frequent breaks;
- Reduce distraction to self and others;
- Calculation device and mathematics tools on calculations and non-calculation sections of math assessments; and
- Extended time (1.5x).

The Supplementary Aids, Services, Program Modifications, and Supports required by the IEP include:

- Repetition of directions, daily;
- Provide alternative ways for the student to demonstrate learning, weekly;
- Monitor independent work, weekly;
- Check for understanding, daily;
- Allow use of manipulatives, weekly;
- Allow use of organizational aids, weekly;
- Break down assignments into smaller units, weekly;
- Altered/modified assignments, weekly
- Encourage/reinforce appropriate behavior in academic and non-academic settings, weekly;
- Strategies to initiate and sustain attention, weekly;
- Preferential seating, weekly; and
- Psychologist consult, monthly.

The IEP requires a psychological consultation thirty minutes monthly with the general and special education teachers.

The IEP has the following goals:

- Math Calculation: “By February 2024, when provided with teacher modeling, examples, and multiple opportunities for practice, [the student] will solve real-world and mathematical problems involving the four operations with rational numbers with 70% accuracy as measured by classwork assignments.”
 - Math Calculation: “By February 2024, when provided with direct instruction, examples, and opportunities to practice, [the student] will solve linear equations with rational number coefficients, including equations whose solutions require expanding expression using the distributive property and collecting like terms with 70% accuracy as measured by classwork assignments.”
 - Written Language Expression: “By February 2024, when provided with teacher guidance and support, process charts and graphics organizers for guidance, [the student] will develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, and focus on how well purpose and audience have been addressed with 70% accuracy as measured by writing assignments.”
 - Reading Comprehension: “By February 2024, when provided with an instructional level literary or informational text and teacher guidance, [the student] will quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text with 80% accuracy as measured by classwork assignments.”
 - Reading Comprehension: “By February 2024, when provided with graphic organizers, teacher guidance, and modeling, [the student] will cite textual evidence that supports an analysis of what the text says explicitly as well as inferences drawn from the text with 70% accuracy as measured by classwork assignments.”
 - Self-management: “By February 2024, with adult cues and prompts, [the student] will increase/improve his academic performance by remaining in class as expected, participating in class discussions, and complete assignments in 3 of 5 opportunities.”
2. There is no documentation that the student was provided with the accommodations, modifications, and specialized instruction required by his IEP from March 2023 to June 2023.
 3. There is documentation that the student received the psychological consult required by his IEP from March 2023 to June 2023.
 4. While there is some documentation to demonstrate that the student received the accommodations, modifications, and supports required by his IEP during the first and second quarters of the 2023-2024 school year, it does not demonstrate that the student was consistently provided with the accommodations, modifications, and supports required by his IEP.
 5. In its written response to this State complaint, the BCPS acknowledges that the student did not receive the three one-hour sessions of specialized instruction in English/Language Arts or the three one-hour sessions of specialized instruction in math weekly, provided by a special education classroom teacher in the special education setting; and the two one-hour sessions of classroom

instruction in the general education setting provided by the general education teacher, as required by his IEP during the first and second quarters of the 2023-2024 school year.

6. In its written response to this State complaint, the BCPS acknowledges that progress was not reported toward the achievement of the self-management goal for the first quarter of the 2023-2024 school year progress monitoring period.
7. The progress reported toward the achievement of the two math calculations, two reading comprehension, and written language expression goals reflects that the student did not make sufficient progress toward his goals on October 31, 2023, and January 18, 2024.
8. There is no documentation that progress was reported towards the achievement of the self-management goal on October 31, 2023.
9. The progress reported toward the achievement of the self-management goal reflects the student did not make sufficient progress toward his goal on January 18, 2024.

February 2024 IEP

10. On February 13, 2024, the IEP team convened to conduct the student's annual review and to address his lack of progress toward his IEP goals. The Prior Written Notice (PWN) generated after the meeting reflects that the student's parent did not attend the meeting. The IEP team reviewed the student's updated academic testing and discussed the areas impacted by the student's disability. The IEP team agreed to goals in the areas of reading fluency, reading phonics, and math problem-solving. The math goal supports the student in the self-contained algebra class and the supplementary aids and services will support his math calculation foundational skills. The IEP team further agreed to increase specialized instruction in math and English and added 15 minutes of indirect classroom consultation with the student's case manager to address the student's lack of progress toward his IEP goals.
11. The February 13, 2024, IEP requires 14 one-hour sessions of specialized instruction outside of the general education setting provided by a special educator weekly.

The IEP reflects that the PLAAFP lists the student as being on the following instructional levels:

- Reading Phonics - 4th grade;
- Reading Fluency - 4th grade
- Reading Comprehension - 4th grade
- Math Calculation - 3rd grade
- Math Problem Solving - 3rd grade; and
- Written Language Expression - 4th grade

The IEP continued the special considerations, accommodations, Supplementary Aids, Services, Program Modifications, and Supports from the February 13, 2023 IEP.

The IEP requires a monthly classroom instruction consult between the general educator and special educator to monitor the implementation of accommodations and progress on goals and objectives.

The IEP has the following goals:

- Math calculation: By February 2025, when given a graphic organizer, the student will be able to choose and produce an equivalent form of an expression to reveal and explain properties of the quantity represented by the expression, using the properties of exponents to transform expressions for exponential functions for an accuracy of at least 80% as measured by weekly probes/assessments.
 - Math problem solving: By February 2025, when given a graphic organizer, the student will be able to create equations and inequalities in one variable and use them to solve problems (including equations arising from linear and quadratic functions, and simple rational and exponential functions) for an accuracy of at least 80% as measured by weekly probes/assessments.
 - Written language expression: By January 2025, when given a graphic organizer, the student will be able to write informative/explanatory texts to examine a topic and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content by: (1) introducing a topic (2) organizing complex ideas, concepts, and information to make important connections and distinctions and (3) including formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehensions for an accuracy of at least a score of 3 out of 4 as measured by the attached rubric.
 - Reading comprehension: By January 2025, when given grade-level passages/text to read, the student will be able to read with sufficient accuracy and fluency to support comprehension by reading grade-level texts with purpose and understanding of accuracy of at least a score of 3 out of 4 as measured by the attached rubric and timed readings.
 - Reading comprehension: By February 2025, when given grade-level literacy text, the student will be able to determine the theme or central idea of the text, analyze in detail its development over the course of the text, including how it emerges and is shaped, and refined by specific details and will provide an objective summary of the text with at least a score of 3 out of 4 as measured by the attached rubric.
 - Reading phonics: By February 2025, the student will know and apply grade-level phonics and word analysis skills in decoding words by using combined knowledge of all letter-sound correspondences, syllabication patterns, and morphology (e.g., roots and affixes) to read accurately unfamiliar, multi-syllabic words in context and out of context for an accuracy of at least 80% as measured by weekly probes/assessments.
 - Reading fluency: By February 2025, when given grade-level passages/text to read, the student will be able to read with sufficient accuracy and fluency to support comprehension by reading grade-level texts with purpose and understanding for an accuracy of at least a score of 3 out of 4 as measured by the attached rubric and timed readings.
12. In its written response to this State complaint, the BCPS acknowledges that the parent did not receive the IEP developed from the February 13, 2024, IEP meeting within five days after the meeting. Specifically, the parent was provided the IEP on March 12, 2024.
13. There is documentation that on March 22, 2024, the complainant shared concerns regarding the student's need for clinical services and requested that his schedule be changed. The student's schedule was changed, and an IEP team meeting was held on April 9, 2024, to address the complainant's concerns.

14. There is no documentation that the IEP team met to address the student's lack of progress toward achieving his IEP goals during the first quarter of the 2023-2024 school year before the February 13, 2024, IEP meeting.
15. There is documentation that the psychological consult was consistently provided as required by the IEP during the 2023-2024 school year.
16. While there is some documentation that the student received the accommodations, modifications, and supports required by the IEP during the third and fourth quarters of the 2023-2024 school year, it does not demonstrate that the student was consistently provided with the accommodations, modifications, and supports required by his IEP.
17. There is documentation that the student was consistently provided the three one-hour sessions of specialized instruction in English Language Arts; three one-hour sessions of specialized instruction in math weekly, provided by a special education classroom teacher in the special education setting; and two one-hour sessions of classroom instruction in the general education setting provided by the general education teacher as required by his IEP during the third and fourth quarters of the 2023-2024 school year.

CONCLUSIONS:

ALLEGATION #1 DEVELOPMENT AND IMPLEMENTATION OF THE IEP

Based on the Findings of Fact # 1, #2, #4 to #6, #10, #11, #15, and #17, MSDE finds the BCPS has not implemented an IEP that addresses the student's identified academic needs since March 2023, in accordance with 34 CFR §§300.323 -.324. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Based on the Findings of Fact #11 and #17, MSDE finds the BCPS has implemented the student's IEP by providing specialized instruction in English Language Arts, math, and one-hour sessions of classroom instruction in the general education setting as required by the IEP for the third and fourth quarters of 2023-2024 school year, in accordance with 34 CFR §§300.323 -.324. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

ALLEGATION #2 ADDRESSING PARENT CONCERNS

Based on the Finding of Fact #10, MSDE finds that the BCPS has ensured that the IEP team addressed parental concerns about the student's academic needs since March 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that no violation occurred concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

PROVISION OF IEP DOCUMENT

It is the public agency's responsibility to ensure that the parent of a student with a disability is provided an accessible copy of the completed IEP not later than five business days after the scheduled IEP team meeting. (COMAR 13A.05.01.07D) In this case, the parent received the IEP from the February 13, 2024, IEP, meeting on March 12, 2024.

Based on Finding of Fact #12, MSDE finds that the BCPS did not ensure that the parent was provided a copy of the IEP document within five (5) business days after the IEP team meetings held on February 13, 2024, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation did occur.

Notwithstanding the violation, based upon Finding of Fact #12, MSDE finds that the BCPS has provided the parent with a copy of the IEP on March 12, 2024. Therefore, no further student-specific corrective action is required.

ADDRESSING THE LACK OF EXPECTED PROGRESS

The IEP team must review the IEP periodically, but not less than annually, to determine whether the annual goals are being achieved. The IEP team must also revise the IEP to address any lack of expected progress toward achieving the goals. (34 CFR § 300.324) In this case, although the student was not making sufficient progress on his IEP goals at the October 31, 2023, progress report, the team did not meet to address the student's lack of progress until February 13, 2024.

Based on the Findings of Fact #7, #9, and #14, MSDE finds that the BCPS did not ensure that the IEP team reviewed and revised, as appropriate, the student's IEP to address the lack of expected progress toward achieving his IEP goals, for the progress reported on October 31, 2023, in accordance with 34 CFR §§300.324. Therefore, this office finds that a violation did occur during this time period.

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. 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.¹ 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

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

Resolution Branch, 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 of the following actions by August 31, 2024:

- Provide the student with the specialized instruction, accommodations, modifications, and supports as required by the IEP;
- Convene an IEP team meeting and determine the amount and nature of compensatory services or other remedy to redress the provision of specialized instruction violation, the provision of accommodations, modifications, and supports, the lack of reporting of progress, and addressing the student's lack of progress. The team must 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 parent is provided with prior 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.

School-Based:

MSDE requires the BCPS to provide documentation of the steps it has taken to ensure that the staff at the [REDACTED] properly executes the requirements for the provision of specialized instruction, accommodations, modifications, and supports; addressing a student's lack of progress toward IEP goals, progress reporting, and the provision of IEP documents to families within five days following an IEP team meeting. The 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 specialized instruction, accommodations, modifications, supports, and progress reporting, and documentation of sending IEPs to the student's family within five days following the IEP team meeting. The first monitoring report must be submitted to MSDE on or before October 1, 2024. Full compliance is required for all components of the monitoring sample. If 100% compliance is not achieved, a second sample of 15 randomly selected students must be submitted on or before December 1, 2024. If full compliance is not achieved, BCPS staff will confer with MSDE on subsequent monitoring activities.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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.

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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/ebh

c: Dr. Sonja Santelises, Chief Executive Officer, BCPS
Christa McGonigal, Educational Specialist, BCPS
██████████, Principal, BCPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE