

May 7, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]

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

RE: [REDACTED]  
Reference: #24-160

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services (DEI/SES), 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 8, 2024, MSDE received a complaint from [REDACTED] and [REDACTED], hereafter, “the complainants”, 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 has consistently been provided with the special education instruction, accommodations, supports, and academic interventions required by the Individualized Education Program (IEP) since March 2023, in accordance with 34 CFR §§300.101 and .323.
2. The BCPS has not ensured that the student’s progress reported towards achievement of the annual academic goals has been consistent with the data since March 2023, in accordance with 34 CFR §300.320.
3. The BCPS did not ensure that the IEP team addressed parental concerns since March 2023, in accordance with 34 CFR §300.324.
4. The BCPS did not ensure that the student's teachers had access to the student's IEP, since March 2023, in accordance with 34 CFR §§300.101 and .323.

## **BACKGROUND**

The student is 13 years old and attends [REDACTED]. She is identified as a student with Specific Learning Disability (SLD) under the IDEA and has an IEP that requires special education instruction and related services.

**ALLEGATION #1: PROVISION OF SPECIAL EDUCATION INSTRUCTION, ACCOMMODATIONS, SUPPORTS, AND ACADEMIC INTERVENTIONS**

## **FINDING OF FACTS:**

1. The IEP in effect in March 2023 was developed on January 10, 2023. The IEP reflects the student's disability impacts communication, writing, reading phonics, and mathematics. The IEP requires the following instruction and assessment accommodations:
  - text to speech for English Language Arts (ELA)/literacy assessments, including items response options and passages;
  - calculation device and mathematics tools (on calculation and non-calculation sections of mathematics assessments);
  - monitor test response; and
  - extended time.

The IEP further requires the following Supplementary Aids, Services, Program Modifications and Supports daily, as needed:

- use of word bank to reinforce vocabulary and/or when extended writing is required;
- use of manipulatives;
- use of organizational skills;
- multiplication chart;
- altered/modified assignments;
- chunking of texts;
- simplified sentence structure, vocabulary, graphics on assignments and assessments; and
- strategies to initiate and sustain attention.

The IEP also requires two hours of specialized instruction per week inside the general education classroom and two hours of specialized instruction per week in a segregated setting provided by the special education classroom teacher and instructional assistant. The IEP also requires that the student receive thirty minutes per week of speech and language services in a segregated setting.

There is no documentation that the IEP requires a reading or math academic intervention.

2. On December 23, 2023, the IEP team convened to review and revise the IEP. The IEP was revised to include missing assignment support periodically as an additional Supplementary Aids, Services, Program Modifications and Supports. The IEP continues to require instruction and assessment accommodations. The IEP was revised to require six twenty-minute sessions per week of specialized classroom instruction inside the general education setting provided by the special education classroom teacher,

general education teacher, and instructional assistant; three hours and forty-five minutes per week of specialized instruction in a segregated setting provided by the special education classroom teacher and instructional assistant; and speech and language services as a related service in a segregated setting twice per month for thirty minutes.

3. There is no documentation that the student was provided text to speech for ELA/literacy assessments including items response options and calculation device and mathematics tools (on calculation and non-calculation sections of mathematics assessments) accommodations, as required by the IEP since March 2023.
4. There is no documentation that the student was provided specialized instruction from March 2023 through June 2023, as required by the IEP.
5. There is documentation that the student was provided specialized instruction since the beginning of the 2023-2024 school year.
6. There is no documentation of the provision of the following supplementary aids, services, program modifications and supports: manipulatives, allow use of organizational skills, multiplication chart, and strategies to initiate and sustain attention since March 2023.
7. There is documentation of the provision of the following supplementary aids, services, program modifications and supports: verbal response, modified response, chunking of text (independent work and small group), word bank/vocabulary, graphic organizer since the beginning of the 2023-2024 school year.
8. There is documentation that the student is being provided with missing assignment support as required by the IEP since December 2023.
9. There is no documentation that the student's present levels of academic achievement and functional performance (PLAAFP), includes a statement of how the child's disability affects the child's involvement and progress in the general education curriculum.

## **DISCUSSIONS AND CONCLUSIONS:**

### **Special Education Instruction and Intervention**

Based on the Findings of Fact #1 and #4, MSDE finds that the BCPS has not ensured that the student has consistently been provided with special education instruction as required by the IEP from March 2023 through June 2023 in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

Based on the Findings of Fact #1 and #5, MSDE finds that the BCPS has ensured that the student has consistently been provided with special education instruction required by the Individualized Education Program (IEP) since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Based on the Findings of Fact #1, MSDE finds that the IEP did not require math or reading interventions, thus, BCPS was not required to provide them, since March 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

### **Accommodations**

Based on the Findings of Fact #1, and #3, MSDE finds that the BCPS has not ensured that the student was consistently provided with the text to speech for ELA/literacy assessments, including items response options and passages and calculation device and mathematics tools (on calculation and non-calculation sections of mathematics Assessments) accommodations, as required by the IEP since March 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

### **Supplementary Aids, Services, Program Modifications, and Supports**

Based on the Findings of Fact #1, and #6, MSDE finds that the BCPS has not ensured that the student was provided with the following supplementary aids, services, program modifications, and supports: manipulatives, allow use of organizational skills, multiplication chart, strategies to initiate and sustain attention, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

Based on the Findings of Fact #1 and #7, MSDE finds that the BCPS has ensured that the student was provided with the supplementary aids, services, program modifications, and supports: verbal response, modified response, chunking of text(independent work and small group), word bank/vocabulary, graphic organizer since March 2023 and missing assignment support since December 2023 as required by the IEP , in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Based on the Findings of Fact #2 and #8, MSDE finds that the BCPS has ensured that the student was provided with missing assignment support since December 2023 as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

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

#### **Present Levels of Academic Achievement and Performance (PLAAPF)**

The public agency, must ensure that the student’s IEP includes a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children). 34 CFR §300.320.

Based on the Findings of Fact #9, MSDE finds that the BCPS has not ensured that the student’s PLAAPF contains a statement of how the student’s disability affects his involvement and progress in the general education curriculum since March 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred.

**ALLEGATION #2**

**REPORT OF PROGRESS CONSISTENT WITH DATA**

**FINDINGS OF FACT:**

**March 2023 IEP**

10. Reports on the student’s progress towards achieving annual articulation, reading phonics, written language, and mathematics goals dated June 13, 2023, November 3, 2023, and February 1, 2024, contain data to support the conclusion that the student was making sufficient progress to achieve the goal within a year.

**CONCLUSION**

In this case, the complaint alleges that the data discussed in the reporting of progress is inaccurate, due to the student’s failing grades.

Based on the Findings of Fact #10, MSDE finds the BCPS has ensured that the student’s progress reported towards achievement of the annual academic goals has been consistent with the data since March 2023, in accordance with 34 CFR §300.320. Therefore, this office finds that a violation has not occurred concerning the allegation.

**ALLEGATION #3**

**ADDRESSING PARENTAL CONCERNS**

**FINDING OF FACTS:**

11. The Prior Written Notice (PWN) developed after the June 6, 2023, IEP team meeting reflects that the complainant “wants to make sure she has the right tools and support in middle school.” The BCPS team reviewed current programming and discussed supports available in the middle school.
12. On September 14, 2023, the complainants emailed the BCPS staff with concerns regarding the student’s grade on her progress report and that the Physical Education (PE) assessment was completed without accommodations.
13. On September 21, 2023, the BCPS staff emailed the complainants that the student’s grades were updated and that “all students are provided opportunities to retake assessments a 2nd time within a 2-week period.” BCPS staff also shared the student had retaken the PE assessment.
14. On December 8, 2023, the complainants emailed the BCPS staff and expressed concern with the student’s grade in Health. The complainant requested that collaboration with the case manager take place to ensure the student is receiving accommodations.
15. On December 19, 2023, a BCPS staff member emailed the complainant that a follow up occurred with the case manager. The email reflects completing assignments and turning them in is a challenge for the student. The student is allowed extended time to turn in assignments and allowed to work on missing assignments or ask questions during class time. The BCPS staff also shared that missing assignments were provided to the student, and copies can be provided to the case manager to work with the student during lunch.

16. The PWN developed after the December 19, 2023 annual IEP review meeting reflects that the complainants expressed concern about the student's rate of speech and the impact on other ability to understand. The speech language pathologist confirmed that time will be allotted to work on having the student slow down and repeat herself as needed. The IEP team proposed and agreed to reduce speech and language services from twice per week to once per week. The complainants expressed disagreement with the report of progress in the reading domains due to the student's grades in language arts, and History. The complainants further expressed concerns that the student is not completing and turning in all assignments and may need additional time/support. The IEP team shared that they are aware of the student's needs. To support the student with missing assignments, the IEP team shared that a coaching class is available during the student's lunch.

### **CONCLUSION:**

Based on the Findings of Fact #11 through #16, MSDE finds that the BCPS has ensured that the IEP team addressed parental concerns since March 2023, in accordance with 34 CFR §300.324. Therefore, MSDE finds that a violation did not occur concerning the allegation.

### **ALLEGATION #4**

### **PROVISION OF IEP DOCUMENT TO STUDENT'S TEACHERS**

### **FINDINGS OF FACT:**

17. There is documentation that the BCPS staff had access to the student's IEP during the 2022-2023 school year.
18. On August 25, 2023, BCPS staff emailed the student's teachers and support staff an IEP snapshot, outlining accommodations and supports that the student requires.
19. On August 28, 2023, the student's science, ELA/reading foundations, history, physical/health, math, PLTW-tech ed, and PLTW-art teachers, instructional assistant/additional adult assistant, and case manager signed the BCPS form acknowledging they have access to the IEP.
20. On March 13, 2024, the student's science, ELA, history, physical/health, math, PLTW-tech ed, PLTW-art and reading teachers, instructional assistant/additional adult assistant, and case manager signed the BCPS form acknowledging they have access to the IEP.
21. On March 21, 2024, BCPS staff emailed the student's teaching staff an IEP snapshot, outlining accommodations and supports that the student requires. The email informed teachers that support staff should also view the document.
22. On March 22, 2024, the student's science, ELA, history, physical/health, math, PLTW-tech ed, PLTW-art and reading teachers, instructional assistant/additional adult assistant, and case manager signed the BCPS form acknowledging they have access to the IEP.

### **CONCLUSION:**

Based on the Findings of Fact #17 through #22, MSDE finds that the BCPS has ensured that the student's teachers had access to the student's IEP, since March 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, MSDE finds that a violation did not occur concerning 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.<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 Ms. 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-based**

MSDE requires the BCPS to provide documentation by July 1, 2024, that the school system has:

- a. Provided the student with all accommodations and supplementary aids and services as required by the IEP; and
- b. Convened an IEP team meeting to revise the student's PLAAFP to include how the child's disability affects the child's involvement and progress in the general education curriculum; and determine the amount and nature of compensatory services or other remedy to redress the lack of provision of special education instruction from March 2023 through June 2023, and to address the inconsistent implementation of the student's supplementary aids and services and accommodations since December 2023, 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 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.

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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**

By September 2, 2024, BCPS must provide documentation of the steps it has taken to ensure that the ██████████ and ██████████ staff properly implements the requirements for the development of PLAAFPs, and the implementation of specialized instruction, supplementary aids and services, and accommodations under the IDEA. These steps must include staff development, as well as tools developed to document the provision and the monitoring of accommodations, supplementary aids, supports, and specially designed instruction. The monitoring plan must reflect the implementation of IEP services and supplementary aids, services, program modifications and supports and accommodations, for 5 randomly selected students at ██████████ School over two reporting periods. The results of the monitoring must be provided to MSDE by December 2, 2024, and February 3, 2025, and must reflect 100% compliance with the implementation of specialized instruction, supplementary aids and services, and accommodations of each student's IEP. If 100% compliance is not achieved, BCPS will consult with MSDE for further action.

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  
Charlene Harris, Supervisor of Compliance in the Department of Special Education, BCPS  
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS  
██████████, Principal ██████████ School, BCPS  
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