

May 7, 2024



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

RE: [REDACTED]
Reference: #24-166

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 11, 2024, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of her son, the above-referenced student. In that correspondence, the complainant alleged that the Baltimore County 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 has not ensured that the student has been provided with the special education instruction and related services required by the Individualized Education Program (IEP) since August 2023, in accordance with 34 CFR §§300.101 and .323. Specifically, the following was alleged:
 - a. The student was not provided special education services from a special education teacher;
 - b. The student was not provided with supplementary aids and services;
 - c. The student was not provided with smaller class sizes;
 - d. The student was not provided with reading intervention; and
 - e. The student was not provided with social and behavior supports.

2. The BCPS did not follow proper procedures when responding to a request for an IEP team meeting since December 2023 to discuss placement, in accordance with 34 CFR §300.503.
3. The BCPS did not provide the parent with a copy of the IEP document within five business days after IEP team meetings in September 2023, November 2023, and March 2024, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
4. The BCPS did not provide prior written notice of the IEP team decisions from the IEP team meetings in September 2023, November 2023, and March 2024, in accordance with 34 CFR §300.503.

BACKGROUND:

The student is 12 years old and is identified as a student with a Specific Learning Disability under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction.

ALLEGATION# 1

PROVISION OF SPECIAL EDUCATION INSTRUCTION AND SUPPORTS

FINDING OF FACTS:

1. The initial IEP, in effect at the start of the 2023- 2024 school year, was developed on June 20, 2023. The IEP requires that the student be provided with support in the areas of Reading Phonics, Reading Comprehension, Math Calculation, Written Language Expression, and Social/Emotional/Behavioral. The IEP includes goals addressing the same areas of concern. The IEP requires that the student receive five hours weekly of specialized instruction inside of the general education classroom with opportunities for small group pull out as needed to address his goals in reading, writing, math, and behavior provided by the general education teacher, special education teacher, and/or instructional assistant, and two hours weekly of specialized instruction outside of the general education classroom for a reading intervention program provided by the reading specialist, special educator, or instructional assistant. The student's least restrictive environment (LRE) is in "the home school" inside the general education classroom with supports. The IEP requires the student to be provided with instructional and testing accommodations, instructional supports, program modifications, social/behavioral supports, and physical/environmental supports. The supports provide an opportunity for small group pull-out.
2. The student transitioned to middle school at the start of the 2023-2024 school year. The middle school IEP team convened on September 7, 2023, to review and revise the IEP as appropriate. The Prior Written Notice (PWN) generated after the meeting indicates that the IEP team reviewed the student's present levels of academic achievement and functional performance, supplementary aids and services, and service hours. The IEP team, including the parent, proposed to maintain the existing IEP goals; however, they also proposed amendments to increase the supplementary aids and services and service hours.

3. The IEP developed on September 7, 2023, requires the use of a word bank to reinforce vocabulary and/or when extended writing is required, providing sentence starters and/or writing frames as part of the Instructional Supports. It also requires the use of organizational aids, a proofreading checklist, breakdown of assignments into smaller units, chunking of text, sentence starters, use of positive reinforcers, and preferential seating.

The IEP further requires:

- Two hours and 30 minutes weekly of specialized instruction inside the general education classroom during English/Language Arts to address reading comprehension and writing skills;
 - One hour and 40 minutes weekly of specialized instruction inside of the general education classroom during social studies to address reading comprehension and writing skills;
 - One hour and 15 minutes weekly of specialized instruction inside of the general education classroom during science to address reading comprehension and writing skills;
 - Two hours and 30 minutes weekly of specialized instruction inside of the general education classroom during math to address math calculation skills.
4. There is no documentation indicating that the IEP team discussed the removal of the reading intervention, opportunities for smaller class sizes, and the reduction of social and behavioral supports in the form of accommodations and services from the revised IEP during the IEP meeting held on September 7, 2024, however, the student started to receive a reading intervention on August 28, 2023.
 5. On March 12, 2024, the complainant agreed to waive her 10-day notification of an IEP team meeting and five-day documents to be present at an IEP team meeting to be scheduled for March 18, 2024.
 6. On March 12, 2024, the complainant emailed the IEP team with concerns regarding the student's IEP.

The complainant requested the delivery of the following services to be implemented “per the current IEP¹”:

- Allow the use of organizational aids
- Provide proofreading checklist
- Other instructional supports, spelling, dictionary, and teacher check-ins
- Breakdown assignments into smaller units
- Chunking of texts

¹The supplementary aids, program modification, and supports the complainant references are from the IEP developed on June 20, 2023. The current IEP in place at the time of the meeting was developed on September 7, 2023.

- Social/ Behavioral Supports
- Use of positive reinforcement
- Smaller class groups
- Preferential seating
- Strategies to initiate and sustain attention
- Taken out of the classroom for additional in-school counseling
- Meeting with a school social worker and receiving in-school counseling
- Tutoring Services

The complainant also requested a "status update" on the delivery of those services to date, stating she has not received any updates that should have been sent out on a set frequency.

7. On March 13, 2024, a BCPS IEP team member responded to the complainant's email and informed her that her concerns would be addressed in the IEP team meeting scheduled for March 18, 2024.
8. On March 18, 2024, the IEP team convened to review and revise the student's IEP, as requested by the parent. During the meeting, the IEP team addressed the complainant's concerns regarding progress reports, the student's behavior, the need for tutoring services, the supports and services the complainant feels the student requires to meet his needs, and LRE. However, the complainant often referenced information that was in the IEP developed on June 20, 2023, and not the IEP developed on September 7, 2023, during which the complainant participated and agreed to the amendments. To address this, the IEP team reviewed and compared the differences between the two IEP's for the complainant. During the meeting, the IEP team also reviewed the student's current present levels of academic achievement and functional performance, supplementary aids and services, testing accommodations, and the LRE. The IEP team proposed to amend the student's supplementary aids and services to support the student's difficulty with sustaining attention and academic needs. The additions included home-school communication, check-in support, frequent changes in activity or opportunities for movement, and three hours and 20 minutes a week of specialized instruction outside of the general education classroom to address the student's decoding skills.
9. During the IEP meeting held on March 18, 2024, the complainant expressed concerns about not receiving any progress reports regarding the student's IEP. The IEP team addressed this by printing all progress reports and providing them to the complainant at the meeting. They also informed her that the progress reports were completed on November 14, 2023, and January 23, 2024, and were sent home with the student on November 14, 2023, and February 5, 2024².
10. There is documentation demonstrating that the student was provided with the special education and accommodations as required by the IEP since the start of the 2023- 2024 school year.

² There is documentation of the IEP progress reports sent to the parent on November 14, 2023, and February 5, 2024.

CONCLUSION:

Based on Finding of Facts #1 through #10, MSDE finds the BCPS has ensured that the student has been provided with the special education instruction and related services required by the IEP since August 2023, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this allegation.

ALLEGATION #2 REQUEST FOR IEP MEETING

11. There is no documentation that an IEP team meeting was convened in November 2023³.
12. Throughout February 2024, the complainant expressed interest in the student attending the ██████████⁴ due to the student having difficulty in school with his grades and behaviors. A BCPS Administrator corresponded via email to the complainant during that time informing her that the student was not eligible for that school as it is a “temporary school placement” and it was “not the answer for IEP implementation.” It was recommended to the school by the “Board of Hearing Officer” that the IEP team meet to address the student’s behavior concerns, and if interventions do not work, the school can request a “program review” for the start of the next school year.
13. On February 29, 2024, the complainant emailed the BCPS Administrator and members of the IEP team to inform them that she had conferenced with ██████████⁵ and felt that the school would be a good fit for the student due to their small class size and provision of individual help. The complainant requested that the school be discussed as an alternative for the student for the following school year.
14. On March 5, 2024, the complainant emailed her concerns to the BCPS Administrator, expressing her feeling that her son is being “targeted for his behaviors and blamed for his misconduct.” She mentioned that the IEP team meetings are not improving the situation and emphasized her desire for him to attend a school specialized in helping him navigate the challenges he is experiencing. The complainant also informed the BCPS Administrator that she had contacted the Baltimore County Board of Schools to discuss her situation and requested a referral letter to be written to the Central School Office for her son's transfer to another school. She reiterated her belief that the current school is not effectively supporting her son academically, as it is primarily focused on his behaviors. Additionally, she emphasized her repeated requests for her son to be placed in smaller class sizes.

³ In the state complaint, the complainant alleges an IEP meeting was held in the month of November 2023.

⁴ ██████████ is an alternative academic program that provides educational and social/emotional support services to students who experience academic challenges. Admittance into a BCPS alternative school is a temporary voluntary placement designed to help students learn new skills before returning to their comprehensive school setting.

⁵ ██████████ is a nonpublic special school for children with learning disabilities in grades 1–12.

15. On March 5, 2024, the BCPS Administrator responded to the complainant via email, informing her that the student was involved in another incident at school. The Administrator clarified to the complainant that the referral she requested required an IEP team meeting, as it pertains to a request for a non-public placement, and it is not an administrative decision. The complainant was informed that an IEP team meeting was scheduled for May 13, 2024.
16. On March 5, 2024, a BCPS Administrator provided the complainant via email with the "Bully Investigation Form" due to the incident that occurred on that day.
17. On March 6, 2024, the complainant requested an emergency IEP team meeting due to the student feeling "unsafe" from an incident that occurred at school on March 5, 2024, and was expressing a reluctance to return to school. The complainant also expressed concerns that the school is not effectively implementing the services outlined in the student's IEP. Specifically, the complainant noted that the student is supposed to receive "counseling services"⁶ and be provided with individual help, which is not occurring. Additionally, the complainant raised concerns about the student's emotional struggles affecting his behavior and stated that the school is not equipped to provide the necessary services. The complainant requested suggestions or alternative schools that the student could attend for the remainder of the school year.
18. On March 6, 2024, a BCPS IEP team member emailed the complainant, informing her that the school would determine a date and time to meet to discuss the student's needs and provide her with a Parent Notification.
19. On March 8, 2024, via email, the complainant informed members of the administration and the IEP team that she has conducted research and feels the [REDACTED] offers more support services and would like the student to attend there instead as the [REDACTED] School is a "short term placement that deals with behavioral issues, suspension, and counseling."
20. On March 11, 2024, the complainant emailed the BCPS administration and members of the IEP team that the student had met with his therapist and pediatrician, and he still does not feel safe returning to school. She mentioned that he is starting to deal with anxiety and emotional trauma from the incident that occurred on March 5, 2024. The complainant requested work to be sent home for the student to complete until she could "figure out another option." She expressed concern about the meeting happening within the week so the student can resume his education in another school. The complainant reiterated that [REDACTED] School was not an option and expressed uncertainty about a "safety plan" to keep the student safe from bullying if he returned to school.

⁶ Per the IEP developed on September 7, 2023, the student does not receive counseling support as a related service.

21. On March 18, 2024, the IEP team discussed the student's LRE. The IEP team proposed for the student to receive support and services in his home school for 80% or more of the school day, both inside and outside of the general education classroom, with support provided by the general educator, special educator, and/or para-educator. However, the complainant disagreed with this proposal and was informed she could "refer to the Parental Rights document." The complainant expressed that the student requires support beyond what can be offered at the current school and requested a non-public placement. Specifically, the complainant requested that the student be placed at "[REDACTED]" or the "[REDACTED]" because he requires small group instruction, and the current school team is not implementing his current accommodations and supports. Additionally, the IEP team proposed the student receive a Functional Behavior Assessment to determine the behaviors interfering with the student's ability to learn. However, the complainant refused the assessment.

CONCLUSIONS:

Based on Finding of Facts #11 through #21, MSDE finds the BCPS did follow proper procedures when responding to a request for an IEP team meeting since December 2023 to discuss placement, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation has not occurred concerning this allegation.

**ALLEGATIONS #3 and #4 PROVISION OF IEP DOCUMENT FIVE DAYS AFTER AN IEP MEETING and
PRIOR WRITTEN NOTICE OF THE IEP TEAM DECISIONS**

22. On September 8, 2023, the complainant received "documents from the student's meeting" held on September 7, 2023, via email from an IEP team member. The complainant confirmed receipt via email on the same date.
23. On March 22, 2024, via email, the complainant informed the IEP team that she had not received the documents from the meeting held on March 18, 2024.
24. On March 22, 2024, via email, the complainant received a copy of the PWN and IEP from the meeting held on March 18, 2024.

CONCLUSIONS:

Provision of IEP Document Five Days After An IEP Meeting

Based on Finding of Facts #22 and #24, MSDE finds, that the BCPS did provide the parent with a copy of the IEP document within five (5) business days after IEP team meetings in September 2023, and March 2024, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation has not occurred concerning this allegation.

Prior Written Notice Of The IEP Team Decisions

Based on Finding of Facts #22 and #24, MSDE finds that the BCPS did provide prior written notice of the IEP team decisions from the IEP team meetings in September 2023 and March 2024, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation has not occurred concerning this allegation.

TIMELINE:

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 in the Department of Special Education, BCPS
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS
[REDACTED], [REDACTED], Principal, BCPS
Alison Barmat, Branch Chief, Family Support/Dispute Resolution, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
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