

May 14, 2024



Dr. Melissa Brunson  
Director of Special Education, WCPS  
Washington County Public Schools  
10435 Downsville Pike  
Hagerstown, Maryland 21740

RE: [REDACTED]  
Reference: #24-171

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 15, 2024, MSDE received a complaint from Mr. [REDACTED], and Mrs. [REDACTED], hereafter, “the complainants,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Washington County Public Schools (WCPS) 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 WCPS did not ensure that the student's substitute teachers had access to the student’s IEP since March 2023, which has resulted in the student’s Individualized Education Program (IEP) not being implemented, in accordance with 34 CFR §§300.101 and .323.
2. The WCPS has not ensured that the student has consistently been provided with the special education instruction, accommodations, supplementary aids, and services required by the IEP since March 2023 in accordance with 34 CFR §§300.101 and .323.
3. The WCPS has not ensured that the IEP team addressed parental concerns regarding bullying since the beginning of the 2023-2024 school year, in accordance with 34 CFR §300.324.

## **BACKGROUND**

The student is 10 years old and attends [REDACTED] School. He is currently identified as a student with an Other Health Impairment (OHI) under the IDEA and has an IEP that requires the provision of special education instruction and related services.

### **ALLEGATION #1:**

### **ACCESS TO THE IEP**

### **FINDINGS OF FACT:**

1. On March 11, 2024, the complainants emailed WCPS staff requesting “confirmation of whether the substitute teacher was briefed on the [the student’s] IEP.”
2. On March 12, 2024, the WCPS staff informed the complaint that “substitutes are briefed with information written in the sub plans or notes that are provided by the teacher.”
3. There is documentation that:
  - substitute teachers used materials prepared by the general education and/or special education teacher of the student; the “IEP at a glance,” which reflects the student’s supplementary aids and accommodations as required by the IEP; and
  - substitute teachers were provided with written guidance of classroom routines/expectations to include the location of the IEP binder, class lists, important student information, dismissal information, actions of the teacher during each activity/instruction block, lunch guidance, and recess guidance.
4. The IEPs in effect since March 2023, reflect the following providers: special education teacher, general education teacher, IEP Team, and instructional assistant. In the absence of the special education teacher or general education teacher, the student’s other providers were in the classroom.

### **CONCLUSION:**

In this case, the complainant alleges that the WCPS did not ensure the substitute teacher was provided with the student’s IEP.

Districts must train substitute teachers to ensure they understand their responsibilities under students' IEPs and know how to appropriately implement any necessary services. A substitute teacher's failure to implement a student's IEP may not only cause the student's educational progress to halt or regress, but it may also increase the student's risk of injury. In this case, the substitute was provided with the student’s IEP binder (including the IEP), detailed lesson plans with strategies, an IEP at a glance, lunch and recess guidance for the student.

Based on the Findings of Fact # 1 through #3, MSDE finds that the WCPS was required to provide the substitute teacher with access to the student’s IEP and receive training on how to implement his services. The general education instructor and special education teacher ensured that in their absence, assignments were developed, and a summary of what the student required were included in the instructions left for the substitute. Therefore, MSDE finds that a violation did not occur concerning this allegation.

**ALLEGATION #2:**

**PROVISION OF SPECIAL EDUCATION INSTRUCTION,  
ACCOMMODATIONS, AND SUPPLEMENTARY AIDS AND SERVICES**

**FINDINGS OF FACT:**

**March 1, 2023 IEP**

5. The IEP in effect on March 1, 2023, was developed on March 30, 2022. The IEP reflects that the student's disability impacts: communication, math calculation, math problem solving, reading comprehension, reading phonics, written language expression, self-management, and fine motor. The IEP requires the following instruction and assessment accommodations:

- calculation device and mathematics tools (on calculation and non-calculation sections of mathematics Assessments)

The IEP further requires the following supplementary aids, services, program modifications, and supports:

- limit amount to be copied from the board and allow alternate ways to demonstrate learning - as needed;
- repetition of directions, redirection to task, check for understanding, and allow to begin work then monitor independent work - daily;
- allow use of manipulatives - daily;
- notice of schedule changes ahead of time, encourage to ask for help when needed, reinforce positive behavior with verbal/nonverbal communication - daily;
- strategies to initiate sustain attention and visual models and supports - daily;
- breaks, break basket, or sensory strategies as needed - daily
- preferential seating - daily; and
- occupational therapist consult monthly.

The IEP requires ten hours per week of specialized instruction inside of the general education setting per week. The IEP requires three hours per week of specialized classroom instruction outside of the general education setting.

**March 8, 2023 IEP**

6. The IEP developed on March 8, 2023, reflects the student's disability impacts: communication, math calculation, math problem solving, reading comprehension, reading phonics, written language expression, self-management, and fine motor. The IEP requires the following instruction and assessment accommodations:

- calculation device and mathematics tools (on calculation and non-calculation sections of mathematics Assessments); and
- extended time (1.5x).

The IEP further requires the following supplementary aids, services, program modifications, and supports daily:

- monitor independent work;
- check for understanding;
- redirection to task;
- provide alternative ways for students to demonstrate learning;
- limit amount to be copied from the board (as needed);
- repetition of directions;
- allow use of manipulatives;
- reinforce positive behavior with verbal/nonverbal communication;
- encourage student to ask for assistance when needed;
- notice of schedule changes ahead of time;
- strategies to initiate sustain attention and visual model;
- Breaks, break basket or sensory strategies needed;
- Preferential seating; and
- Occupational Therapy consult (monthly).

The IEP requires ten hours per week of specialized instruction inside the general education setting. The IEP requires three hours per week of specialized instruction outside of the general education setting. The IEP further requires ESY services in July 2023.

#### **May 22, 2023 amended IEP**

7. The IEP requires the additional supplementary aids, services, program modifications, and supports daily:
- use of word bank to reinforce vocabulary and/or when extended writing is required; and
  - break down multi-step directions.

#### **August 14, 2023 amended IEP**

8. The IEP was amended to include data from an assessment completed at [REDACTED] ([REDACTED]). The IEP requires the additional supplementary aids, services, program modifications, and supports:
- Audiobooks - weekly;
  - Task chart - weekly; and
  - home/school communication - daily.

#### **October 23, 2023 amended IEP**

9. The IEP requires the additional supplementary aids, services, program modifications, and supports:
- provide clear expectations - daily; and
  - monitor test response - daily.

### March 4, 2024 IEP

10. The IEP developed on March 4, 2024, reflects the student's disability impacts: communication, math calculation, math problem solving, reading comprehension, reading phonics, written language expression, self-management, and fine motor. The IEP requires the following instruction and assessment accommodations:

- human reader/human signer for ELA;
- calculation device and mathematics tools (on calculation and non-calculation sections of mathematics Assessments);
- ELA/literacy selected response speech to text;
- monitor test response; and
- extended time (1.5x).

The IEP further requires the following supplementary aids, services, program modifications, and supports:

- provide checklist for editing;
- provide clear expectations;
- monitor test response;
- home/school communication;
- use of word bank to reinforce vocabulary and/or when extended writing is required;
- break down multi-step direction;
- monitor independent work;
- check for understanding;
- redirection to task;
- provide alternative ways for students to demonstrate learning;
- Repetition of directions;
- shorten tasks and assignments;
- breakdown assignments into smaller units;
- use of visual timer;
- adult support;
- secure attention before giving directions;
- encourage student to ask for assistance when needed;
- strategies to initiate sustain attention and visual models and supports;
- Breaks, break basket or sensory strategies needed;
- Preferential seating;
- Audiobooks weekly;
- Task chart weekly;
- Limit amount to be copied from the board - as needed;
- notice of schedule changes ahead of time - as needed;
- speech/language pathologist consult periodically; and
- Occupational Therapy consult monthly.

The IEP requires three hours and twenty-five minutes of specialized instruction inside of the general education setting daily. The IEP requires one hour and fifteen minutes of specialized instruction outside of the general education setting daily.

11. There is no documentation of the provision of supplementary aids and services, special education instruction, and accommodations from March 2023 through June 2023, as required by the IEP.
12. There is documentation that the complainant declined ESY services for the 2022-2023 school year, therefore, the student did not attend ESY.
13. There is documentation of the provision of supplementary aids and services, special education instruction, and accommodations since the beginning of the 2023-2024 school year as required by the IEP.

**DISCUSSION AND CONCLUSION:**

Based on the Findings of Fact #5, #6, and #11, MSDE finds that the WCPS has not provided the student with the supplementary aids and services, special education instruction, and accommodations 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 #6, and #12, MSDE finds that the student did not attend ESY for the 2022-2023 school year; therefore, the WCPS was unable to provide the student with the supplementary aids and services, special education instruction, and accommodations as required by the IEP, in accordance with 34 CFR §§300.101 and .323. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

Based on the Findings of Fact #7, #8, #9, #10, and #13, MSDE finds that the WCPS has consistently provided the student with the supplementary aids and services, special education instruction, and accommodations as required by the 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.

**ALLEGATION #3: PARENTAL CONCERNS**

**FINDINGS OF FACT:**

14. There is documentation of a parent phone call between the complaint and a WCPS staff member. The WCPS staff completed a Bullying, Harassment, or Intimidation Incident school investigation form as a result of the phone call. The form reflects the parent's expressed concerns with the engagement between her child and another student. The form reflects that on May 31, 2023, a conference was held with the parents.
15. There is no documentation that the WCPS administration referred this matter to the IEP team for consideration.

**DISCUSSION AND CONCLUSION:**

Based on the Findings of Fact, #14, and #15, MSDE finds that the parent's bullying concerns were not raised with the WCPS IEP team; therefore, they were not required to address parental concerns, specifically the bullying incidents, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation did not occur concerning this allegation.



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### **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 Specific**

MSDE requires the WCPS to provide documentation by August 1, 2024, that the IEP team has convened and determined the amount and nature of compensatory services, or other remedy, to address the violations identified in this Letter of Finding and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

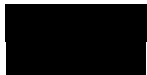
The WCPS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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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<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.



  
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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/ra

c: Dr. David Sovine, Superintendent, WCPS  
Brenna Creedon, Supervisor Special Education, WCPS  
Robert Koogle, Supervisor Special Education, WCPS  
,  Elementary School, WCPS  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
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Tracy Givens, Section Chief, Dispute Resolution MSDE  
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