

May 20, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #24-175

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], hereafter, “the complainant,” on behalf of his son. 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 was provided with the toileting and feeding supports as required by the Individualized Education Program (IEP) since November 2023, in accordance with 34 CFR § 300.101 and 34 CFR § 300.323.
2. The BCPS has not followed proper procedures when disciplinarily removing the student from class since November 2023, in accordance with 34 CFR §300.530.
3. The BCPS has not developed and implemented an IEP that addressed the student’s identified behavioral needs since November 2023, in accordance with 34 CFR §§300.101 and .323-.324.

BACKGROUND:

The student is 12 years old and is identified as a student with Intellectual Disability (ID) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services. The student was previously homeschooled for the 2021-2022 and 2022-2023 school years.

Findings of Fact:

August 2023 IEP

1. The IEP in effect in November 2023, was developed on August 28, 2023. The present level of academic achievement and functional performance (PLAAPF) reflects the following instructional levels for the student:
 - Academic - below grade-level expectations;
 - Social/Emotional/Behavioral - below grade-level expectations;
 - Communication - “moderate-mild receptive/expressive language delay;”
 - Visual perceptual/Motor - below age expectations; and
 - Fine motor - below age expectations: “During his lunch period, he has demonstrated the ability to spear and scoop his food and bring it to his mouth without spillage.”

There is no “Projected Category of Exit” information completed. The IEP reflects the student is participating in a four-year program and is projected to exit/graduate in June 2029-2030.

The special considerations and accommodations for instruction and assessment required by the IEP are:

- Audio amplification;
- Bookmark;
- Blank scratch paper;
- Eliminate answer choice;
- General administration directions clarified;
- General administration directions read aloud and repeated as needed;
- Highlight tool;
- Headphones or noise buffers;
- Line reader mask tool;
- magnification/enlargement device;
- Notepad;
- Pop-up glossary;
- Redirect student;
- Spell check or external spell check device;
- Writing tools;
- Graphic organizer;
- Audio materials;
- Frequent breaks; and
- Reduce distractions to self.

The supplementary aids, services, program modifications, and supports required by the IEP are:

- Intervention for phonemic awareness and phonics skills. daily;
- Simplified sentence structure, vocabulary, and graphics on assignments and assessments, daily;

- Strategies to initiate and sustain attention, daily;
- Social skills training, daily;
- Preferential seating, daily;
- Adult support, daily;
- Speech-language pathologist consult, weekly; and
- Occupational therapist consult “to support classroom teacher and staff in fine motor/visual motor skills and to develop a sensory diet.”

The IEP includes goals in the areas of communication, social skills, reading, math, and fine/visual motor. The student’s social skills goal states: “[The student] will improve personal social skills in the area of engaging adults and peers appropriately in 80% of targeted trials.” The student’s progress toward his IEP goals reflects the following:

- Communication:
 - November 7, 2023 - Newly introduced skill; progress not measurable at this time.
 - January 23, 2024 - Achieved.
- Social Skills:
 - November 10, 2023 - Making sufficient progress to meet the goal.
 - January 23, 2024 - Achieved.
 - April 5, 2024 - Achieved.
- Reading:
 - November 10, 2023 - Making sufficient progress to meet the goal.
 - January 23, 2024 - Achieved.
 - April 5, 2024 - Achieved.
- Math:
 - November 10, 2023 - Making sufficient progress to meet the goal.
 - January 23, 2024 - Achieved.
 - April 5, 2024 - Achieved.
- Fine/Visual Motor:
 - November 3, 2023 - Not yet introduced.
 - January 23, 2024 - Not yet introduced.
 - April 5, 2024 - Not yet introduced.

The IEP required the student to receive five three-hour and 30-minute sessions of special education services outside of general education weekly “with a focus on life skills and functional academics”; one 30-minute session of speech-language pathology service weekly; two 30-minute sessions of occupational therapy monthly; and transportation.

The IEP reflects the least restrictive environment for the student as inside general education less than 40% of the school day.

2. There is no documentation that the August 28, 2023, IEP requires toileting or feeding support.
3. There is no documentation that the reporting of the student’s progress towards the achievement of the social skills, reading, and fine/visual motor IEP goals since January 2024 was measured as required by the IEP.
4. On October 5, 2023, the complainant emailed the BCPS staff requesting to stop virtual speech-language services until a meeting was held with the school-based team and the student's family.

5. On October 18, 2023, the complainant provided signed consent for the student to be evaluated in the areas of academic performance, communication, and functional/adaptive performance.
6. On November 15, 2023, the BCPS staff emailed the complainant stating that the student “[continued] to touch staff and students inappropriately [both inside and outside of the classroom]”. The email requested that the complainant talk with the student regarding these behaviors.
7. On November 15, 2023, the complainant responded to the BCPS staff stating that he would do so.
8. On November 29, 2023, the complainant contacted the BCPS staff regarding the student’s removal from the classroom due to behavior. In the letter, the complainant stated, “There is no action plan yet because all [of] the assessments from the team for [the student] have not been completed and turned in.” The complainant requested that the student not be removed from the classroom due to behavior.
9. On November 30, 2023, the complainant emailed the BCPS staff regarding “unlawful suspension” when the student was being removed from the classroom “every day” to be escorted to the Behavioral Management office. The complainant shared that the staff member in that office does not have a plan to address the student’s behavior because the assessment and observation data had not been completed and turned in.
10. On five occasions from November 6, 2023, to November 28, 2023, the student received a mediation/conflict resolution for “self-control and keeping hands to self-strategies.”
11. On December 2, 2023, the complainant emailed the BCPS staff requesting an annual review meeting to discuss assessment results, Extended School Year (ESY) services, and occupational therapy. The complainant also requested that the school psychologist participate to discuss inappropriate touching and social behavior goals and to develop a feeding protocol.
12. On December 3, 2023, the complainant emailed the BCPS staff declining virtual speech-language services and requested the team find him an “in-house” speech pathologist.
13. On December 4, 2023, the complainant emailed the BCPS staff stating that the student was without a speech-language pathologist for 31 days.
14. On December 4, 2023, the BCPS emailed the complainant stating:
 - On November 28, 2023, an IEP meeting notice was sent to schedule the meeting for December 20, 2023. All team members will collaborate at both meetings to address the student’s needs.
 - Notice and Consent for Assessment will be sent by December 13, 2024.
 - The assessments to be reviewed at the meeting include:
 - Psychological assessment (adaptive scales and social/emotional/behavioral scales);
 - Classroom observation;
 - Educational assessment;
 - Speech assessment;
 - Adapted physical education assessment; and
 - occupational therapy assessment.

- The email requested that the complainant share “words and/or visuals” used at home to help slow the student down to reduce instances of choking.
 - The team will introduce a social story to be sent home concerning taking your time when eating.
 - The team would reconvene on January 22, 2024, to conduct the student’s annual review to address safety concerns, review goals and placement, and discuss ESY services.
 - The Department of Special Education has been contacted to advise but are not a part of the IEP team and do not guide IEP team decisions.
15. On December 5, 2023, the complainant emailed the BCPS staff stating that the student was found choking in the classroom by his mother. The complainant requested that the student receive a drink with his meals. Additionally, the student was not wearing his belt when he was picked up at dismissal causing him to struggle to walk while keeping his trousers from falling.
16. On December 6, 2023, the BCPS emailed the complainant scheduling a conference for December 11, 2023. The email reflects that the purpose of the conference is to discuss ensuring the student was appropriately dressed after returning from the restroom, choking while eating breakfast, supervision on field trips, and reviewing parent procedures for classroom visits.

December 20, 2023, IEP Meeting

17. On December 20, 2023, the IEP team convened to review assessments, determine eligibility, and conduct the student’s annual review. The Prior Written Notice (PWN) generated after the meeting reflects the student was homeschooled for more than three years prior to the 2023-2024 school year and the team reviewed the student’s speech-language assessment, classroom observation information, and educational assessment. The team also reviewed teacher reports reflecting that there were concerns about the student yelling out in class and putting objects in his mouth, but no significant behavior concerns. The BCPS team shared that the student received 1:1 support from the classroom teacher for missing work, and there were nine students in the classroom with two adult assistants and one paraeducator. The teacher shared that during negative peer interactions, the students' seats are moved, and their focus is redirected to following the classroom agenda. The complainant asked if the student had been escorted out of the classroom. The BCPS team shared that when the student exhibits distracting behaviors he responds to redirection.

The PWN further reflects that the complainant inquired about the student being removed to the Social Emotional Learning (SEL) room and if the SEL teacher works with the student while he is out of the classroom. The BCPS team shared that the student had not been sent to the SEL room for the past two weeks, and “sometimes [the student would] have work[,] but usually it is for a break and [the teacher] will work with [the student] 1:1 when he gets back into the [classroom].” The PWN reflects that the team discussed how to recognize when the student is struggling and that working with the SEL teacher and taking walking breaks helps when redirection and sensory items don’t calm the student.

The BCPS team shared that the student mastered his previous speech goals, and additional data could have been collected through virtual speech-language services, but the student’s parents declined the service. The classroom observation information reflected that the student had significant problems in the areas of “listening comprehension, oral expression, basic reading skills, written expression, discrimination (visual/auditory), visual motor coordination, attention,

organization, activity level, social interaction, work habits, task completion, motivation/participation, and speech.” It was also determined that the student was “performing significantly below grade level compared to his same-age peers.”

The PWN reflects that the new Occupational Therapist did not see a completed occupational therapy assessment.

The complainant’s advocate had to leave so the team agreed to continue the meeting at a later date.

18. On January 22, 2024, the complainant requested to reschedule the January 22, 2024, IEP team meeting. The meeting was rescheduled for February 1, 2024.

February 1, 2024, IEP Meeting

19. On February 1, 2024, the IEP team reconvened to continue the student’s annual review and complete the alternate assessment checklist. The PWN generated after the meeting reflects that the complainant’s advocate shared her observations of the student during his “morning routine, speech-language services, math, a break, and art.” It was shared that “during academics [the student] was observed talking, yelling, and telling [the teacher] to shut up.” In response to this behavior, the advocate shared that the student was taken for a walk and “processed well with the adult assistant.” The advocate stated that the student “needs someone else with him” because he continued to have issues once he returned to class. The advocate inquired about the adult support provided to the student, and the school-based team stated that there is additional adult support in the classroom which has a ratio of three students to one adult.

The IEP team discussed the student’s least restrictive environment. It was stated that the student is outside of the general education for all his classes. The complainant’s advocate shared that the student needs more support, and it was noted that the advocate and the complainant had observed the adult support assistants on their phones and “not doing what they are supposed to do.” The school-based team shared that it would contact the Department of Special Education to request an observation.

The team reviewed the Adapted Physical Education (APE) report, and APE was recommended for the student due to instructional needs and safety concerns.

The PWN reflects the team reviewed the draft IEP, and the IEP team determined that the student should participate in an alternate assessment “based on alternate academic achieved standards and [he] is on a certificate program completion track.” The complainant inquired as to whether it was too soon to make such a determination, and the school-based team explained that the student is in the Functional Academic Learning Supports (FALS) classroom which is on a certificate track. The parents agreed and provided consent for the student to participate in alternate assessments.

The team reviewed the “PLAAFP I” and determined that informal speech-language assessments showed a need to work on temporal terms.

The student’s mother shared that the student gets confused about what is real and what is make-believe, and the team shared that this issue was also a concern at school. The team discussed the student receiving a bite on his arm, and that the student’s story regarding how the bite occurred

changed on three occasions. The team agreed to reconvene to complete the IEP and Alternate Assessment Checklist.

20. On February 14, 2024, the complainant emailed the BCPS staff about inappropriate bathroom use by the student and the possibility of him being banned from using the ADA-accessible restroom.
21. On February 16, 2024, the BCPS staff emailed the complainant stating that per his request, an IEP meeting was scheduled for February 27, 2024. The meeting was rescheduled for March 15, 2024.

March 15, 2024, IEP Meeting

22. On March 15, 2024, the IEP team reconvened to complete the student's annual review. The PWN generated after the meeting reflects the team reviewed the student's occupational therapy assessment, and it was shared that in the area of sensory processing "[the student] will excessively explore his environment through his sense of touch as well as putting object[s] in his mouth..." The team also discussed the student's fine motor skills, visual/perceptual motor skills, and functional skills. The PWN reflects that "the family asked about physical movement" but the team could not address the concern because it is a physical therapy concern.

The team reviewed the "PLAAFP II", at which time the complainant stated, "Staff needs to be vigilant of [the student's] triggers and respect his space."

The school-based team reviewed the supplementary aids, services, and program modifications and supports page and clarified the explanation for social/behavior supports, strategies used to facilitate and sustain attention, the word bank, and the chunking of assignments.

The team discussed the student's health concerns and the complainant stated that the student has a heart condition. The team discussed the need to have documentation regarding any health issues, and it was determined that a health plan would be created.

The IEP team discussed the student's speech-language consult, reviewed and updated the IEP goals, and determined that the student continued to qualify for the alternative assessment and continued to require placement in the FALS program.

The complainant shared that the student needs social worker support, and the IEP team determined a social work referral would be submitted.

March 2024 IEP

23. The March 15, 2024, IEP reflects that the student will receive a certificate of Program Completion; and the IEP team determined the student will be instructed using the alternate standards.

The IEP reflects the student's current instructional grade levels of performance as:

- Reading comprehension - first grade;
- Math calculation - kindergarten;
- Written language content - kindergarten;
- Social/Emotional/Behavioral - below age expectations;
- Communication - below average when compared to same-age peers;

- Physical education - second grade; and
- Sensory processing strategies - below grade level expectations: “[The student] demonstrates functional self-care skills for participating in his academic program for self-feeding and toileting.”

The special consideration and accommodations required for instruction and assessment remained the same, and the following accommodations were added:

- Text-to-speech and text-to-graphics for mathematics, science, and government assessments;
- Reduce distractions to others;
- Text-to-speech for ELA/literacy;
- Calculation device for mathematics on non-calculator sections of mathematics assessments;
- ELA/literacy selected response speech-to-text;
- Mathematics, science, government response speech-to-text;
- ELA/literacy constructed response speech-to-text; and
- Extended time (1.5x).

The supplementary aids, services, program modifications, and supports required by the IEP include:

- Allow use of highlighters during instruction and assignments, daily;
- Allow use of manipulatives, daily;
- Allow use of organizational aids, daily;
- Have student repeat and/or paraphrase information, daily;
- Use of word bank to reinforce vocabulary and/or when extended writing is required, daily;
- Chunking of texts, daily;
- altered/modified assignments, daily;
- Break down assignments into smaller units, daily;
- Use pictures to support reading passages whenever possible, daily;
- First, then mode for participation, daily;
- Provide frequent changes in activity or opportunities for movement, daily;
- Provide manipulatives and/or sensory activities to promote listening and focusing skills, daily;
- Use of positive /concrete reinforcers, daily;
- Strategies to initiate and sustain attention, daily;
- Sensory supports, daily;
- Preferential seating, daily;
- Sensory strategies, daily;
- Adult support, daily;
- Occupational therapist consult, monthly; and
- Speech-language pathologist consult, periodically as needed.

The IEP contains goals in the areas of reading comprehension, math, writing, social/behavioral, functional, communication, and adapted physical education.

The student's social/behavioral goal is: “By March 2024, given a familiar academic task, [the student] will independently remain on-task (i.e. actively working on the task, staying in seat, minimal distraction to others, minimal prompting, answering relevant questions of peers/teacher), without an outburst for at least (15) minutes or until the task is completed as directed with no more than 1 verbal prompt for (4 out of 5) academic tasks.”

The progress reported towards the achievement of the communication goal dated April 5, 2024, reflects “Newly introduced skill; progress not measurable at this time. Newly introduced skill due to recent implementation of IEP (annual review held on 3/15/2024), therefore, progress is not measurable at this time.”

The special education services required by the IEP are:

- 10 one-hour and 30-minute sessions of Physical education, outside general education, monthly: “[The student] will receive Adapted PE services with the physical education teacher for 90-minute sessions 2 or 3 times a week with the A/B schedule for...a total of 15 hours/month.”
- Five five-hour and 30-minute sessions of classroom instruction, outside general education, weekly: “[The student] will receive all instruction in a self-contained FALS classroom including lunch.”
- One one-hour and 30-minute session of classroom instruction, inside general education, weekly: “[The student] will be included in the general education setting for special areas. This will include art and music.”
- Two 15-minute sessions of speech/language pathology service, outside general education, weekly; and
- Transportation.

The least restrictive environment for the student was determined to be in the FALS program for academics, inside general education less than 40%.

24. There is no documentation that the March 15, 2024, IEP requires toileting or feeding supports.
25. On April 4, 2024, the complaint emailed the BCPS staff requesting an IEP team meeting to address safety concerns for the student while at school due to the student being physically attacked by a classmate.
26. On April 8, 2024, the BCPS staff emailed the complainant to confirm a proposed date of April 11, 2024, for a safety planning meeting. The staff member also shared the date and time for the previously scheduled IEP meeting on April 18, 2024.
27. On April 15, 2024, a safety plan was created for the student. The safety plan addressed the “specific unsafe behaviors” of the student being physically attacked by a classroom peer, negative interactions with classroom peers, and unwanted touch between the student and other classroom peers. The daily steps implemented by the plan are provided “to ensure [the student] is safe and staff are aware of his calming strategies within the school building.” The areas and times addressed by the plan include:
 - Morning routine and attendance;
 - Bathroom breaks, lunchtime, locker, trips, assemblies, and transportation;
 - A 5-step feeding plan that utilizes social stories and considers monitoring the student’s food consumption to prevent choking episodes;
 - Instructional strategies to support desired (expected) behaviors; and
 - Response to undesired (unexpected) behaviors; Incentives and accommodations.
28. On April 16, 2024, the student’s classroom teacher, paraprofessional, and adult assistant received first-aid training for choking.

April 18, 2024, IEP Meeting

29. On April 18, 2024, the IEP team reconvened to review and revise the student's IEP, and to conduct reevaluation planning with specific consideration of the need for a Functional Behavior Assessment (FBA).

The PWN generated after the meeting reflects the team proposed adding social work services, “a goal”, and social work consult to help the student work on his self-management skills in addition to proposing to conduct an FBA. The PWN reflects that the complainant requested that the student receive social work services for “problematic behaviors in the classroom.” The IEP team discussed the student’s social-emotional needs, the social work curriculum, the student’s sensory needs, and how occupational therapy can support his sensory needs.

The IEP team agreed to develop a self-management goal and to provide the student with visuals to demonstrate the expected behaviors and added a “break card” to the student’s supplementary aids and services. The PWN reflects that the IEP team discussed “a proposal of in-class services as well as individual services to tie into the social and sensory cravings.” It was determined that school-based staff would work with the student in the classroom to provide instruction on independence and self-management and to assist the student with transferring the skills learned outside of the classroom into in-class behaviors. The team agreed to add social work services, social work consult, and a self-management goal. The team decided to add two, 20-minute sessions weekly in addition to a consult service to allow for the “[creation] of visuals, working with classroom staff, and checking in with staff to [ensure] the visuals/strategies are working.”

The IEP team discussed the need for an FBA and determined that the behaviors to be addressed would be “using foul language” and “classroom interruptions with yelling and screaming.”

The IEP team also discussed whether the student needed an additional designated adult assistant as the student’s mother inferred. The school-based team determined that it would be determined after the collection of the FBA data.

April 2024 IEP

30. The April 18, 2024, IEP reflects that a Social/Emotional/Behavioral PLAAFP was added reflecting that the student was performing below age and grade level expectations. The data indicates that the primary areas of struggle for the student are identifying positive coping skills to manage emotions and increase self-confidence and stamina when engaging with his work.

The IEP team agreed to add two 20-minute weekly social work services, outside general education.

A quarterly social work consult was added to the student's supplementary aids, services, program modifications and supports.

An additional goal in the area of self-management was added to the student’s IEP. The student’s self-management goal is: “When [the student] becomes upset, excited, silly or frustrated, he will choose 1 self-regulation/coping strategy from a menu (i.e. movement break, deep breathing, quiet space break, etc.) to avoid engaging in unexpected behavior (i.e. yelling, out of seat, etc.) with no more than 3 prompts.”

The student's IEP services, special considerations, accommodations, and LRE were continued.

31. There is no documentation that the April 18, 20204, IEP requires toileting or feeding support.
32. The student's disciplinary report for the 2023-2024 school year reflects that the student has not received any disciplinary referrals.
33. There is documentation that the student received some toileting support in the form of visual aids.
34. There is documentation that the student's APE Assessment was conducted on January 11, 2024.
35. There is documentation that a "Classroom Health Plan" was developed on May 2, 2024.
36. While there is some documentation that the student received speech-language and occupational therapy services since September 2023, it does not demonstrate that they were consistently provided as required by the IEP.

CONCLUSIONS:

ALLEGATION #1: PROVISION OF TOILETING AND FEEDING SUPPORTS

Based on the Findings of Facts #1, #2, #23, #24, #30, and #31, MSDE finds that toileting and feeding supports were not required by the student's IEP since November 2023. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #2: DISCIPLINARY PROCEDURES

Based on the Findings of Fact #8 to #10, #17, and #32, MSDE finds that the BCPS has not disciplinarily removed the student from the classroom since November 2023, in accordance with 34 CFR §300.530. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #3: IEP THAT ADDRESSES THE STUDENT'S BEHAVIORAL NEEDS

Based on the Findings of Fact #1, #6, #8 to #11, #14, #17, and #19, MSDE finds that the BCPS has not developed and implemented an IEP that addressed the student's identified behavioral needs from November 2023 to April 2024, in accordance with 34 CFR §§300.101 and .323-.324. Therefore, this office finds that a violation occurred concerning the allegation.

Based on the Findings of Fact #22, #23, #25 to #27, #29, #30, and #32, MSDE finds that the BCPS has developed and implemented an IEP that addressed the student's identified behavioral needs since April 2024, in accordance with 34 CFR §§300.101 and .323-.324. Therefore, this office finds that no violation occurred concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

MEASUREMENT OF PROGRESS

An IEP must include a statement of measurable annual goals that includes a description of how the child's progress toward meeting the annual goals will be measured, and when periodic reports on the progress the child is making toward meeting the annual goals will be provided. (34 CFR §§300.320)

In this case, the reporting of the student's progress towards the achievement of the social skills, reading, and fine/visual motor goals since January 2024, was not measured as required by the IEP.

Based on the Findings of Fact #1 and #3, MSDE finds that the BCPS has not ensured that the student's progress towards achievement of the annual goals was measured as required by the IEP, since January 2024, in accordance with 34 CFR §§300.101 and .320. Therefore, this office finds that a violation occurred.

PROVISION OF SPECIAL EDUCATION RELATED SERVICES

As soon as possible following the development of the IEP, special education, and related services are made available to the child in accordance with the child's IEP. (34 CFR §300.323)

In this case, the complainant declined virtual speech-language services on December 3, 2023; however, there is no documentation that the student received speech-language and occupational therapy services as required by the IEP from the start of the 2023-2024 school year until December 2, 2023.

Based on the Findings of Fact #1, #12, #23, #30, and #36, MSDE finds that the BCPS has not ensured that the student received the speech-language and occupational therapy as required by the IEP, in accordance with 34 CFR §§300.101 and .323.

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.

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, the 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.

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. 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 by September 30, 2024, that the school system has:

- Provided the student with occupational therapy and speech-language services as required by the IEP;
- Convened an IEP team meeting to determine the amount and nature of compensatory services or other remedy to address the lack of provision of speech-language and occupational therapy services, and determine if the failure to report progress as required, and develop and implement an IEP that addressed the student's behavior needs 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 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 by November 1, 2024, of the steps it has taken to ensure that the staff at [REDACTED] staff properly implements and documents the requirements for the implementation of related services, developing and implementing an IEP that addresses identified needs, and measuring progress toward the achievement of IEP goals under the IDEA. The steps must include professional development to address the identified violations in this Letter of Finding.

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.

██████████
Dr. Allison Myers

May 20, 2024

Page 14

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. Myriam Rogers, Superintendent, BCPS
- Charlene Harris, Supervisor of Compliance in the Department of Special Education, BCPS
- Jason Miller, Coordinator, Special Education Compliance, BCPS
- Norma Villanueva, Compliance Specialist, BCPS
- ██████████, Principal, ██████████, BCPS
- Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
- 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