

August 28, 2024

[REDACTED]

Ms. Kim Waller  
Supervisor of Special Education  
Dorchester County Public Schools  
700 Glasgow Street  
Cambridge, Maryland 21613

RE: [REDACTED]  
Reference: #24-178

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services, 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.

**ALLEGATION:**

On March 21, 2024, the MSDE received a complaint from Mr. [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Dorchester County Public Schools (DCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the above-referenced student.

MSDE investigated the allegation that the DCPS has not ensured that the student has been provided the social-emotional supports required by the IEP since December 2023, in accordance with 34 CFR §§ 300.101 and .323. Specifically, the complainant alleges that the student was denied the opportunity to receive guided problem-solving from a trusted adult and denied the use of the “Mindfulness Room” to de-escalate without receiving punishment.

**BACKGROUND:**

The student is 15 years old and is identified as a student with Emotional Disability (ED) under the IDEA. The student attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACT:**

1. The IEP in effect for the student in December 2023, is dated March 22, 2023. The projected annual review date for the IEP is March 21, 2024. The IEP reflects the student’s primary disability is Emotional Disability (ED) with written language expression and social-emotional/behavioral as the areas affected by the disability. The Present Level of Academic Achievement and Functional Performance (PLAAFP) reflects that the student’s current level of performance in

social-emotional/behavioral was below same-aged peers. The following are the social-emotional/behavioral supplementary aids, services, program modifications, and supports required by the IEP:

- Behavior contract (“A behavior contract will be developed to focus on short-term goals to address behaviors in both academic and non-academic settings. The contract will be addressed and reviewed through counseling sessions with the school psychologist.”);
- Home-School communication system (“When [the student’s] behavior becomes escalated and requests to speak to a parent, [the student] will be permitted to contact home in a designated location. This support will be provided in both academic and non-academic settings.”);
- Crisis intervention (“When [the student] is overwhelmed and her behavior begins to escalate, [the student] will be directed to a trusted adult in a designated location to engage in de-escalation techniques. These techniques include, but are not limited to, verbal prompts, behavior correction techniques, and guided problem-solving. This behavioral support will be provided in both academic and non-academic situations.”);
- Flash pass (“[The student] will have access to a flash pass to use when she is feeling overwhelmed or needs to regulate herself. [The student] will present the pass to her classroom teacher to exit the classroom and move to a designated location within the school, where [the student] will work on strategies to get herself regulated for class. The flash pass will be available in all academic areas.”);
- Check-in/Check-out (“[The student] will check in and out throughout the day with trusted adults to address the short-term behavior contract and review expectations in other academic and non-academic settings. [The student] will be pulled prior to the end of each class to reflect upon the contract before going to her next class at the late bell. At the conclusion of the day, [the student] will reflect upon her day and how she addressed her short-term behavior contract prior to dismissal.”); and
- Anger management training (“The counseling sessions, [the student] will be provided with anger management training on skills needed to de-escalate and utilize during both non-anger invoking events and moments of escalation to general in both academic and non-academic settings.”)

The IEP states “[The student] has demonstrated difficulty with emotional control, anger management, interpersonal skills, and conflict resolution and is in need of supplementary aids and supports to address her deficits in these areas in order to participate in the general education curriculum.”

The IEP required the following social-emotional/behavioral goals:

- “Given a real-life scenario of a recent conflict with a student/peer, [the student] will follow a six-step process to resolve a conflict. (1) Cool down, (2) Share, listen, and check, (3) Take responsibility for your part, (4) Brainstorm solutions, (5) Choose a solution, (6) forgive and thank.”
- “During counseling sessions, [g]iven a real-life situation that [the student] has experienced, [the student] will identify her negative thoughts and replace them with rational thoughts by using one strategy in 4 out of 5 situations by 3/21/2024.”

The IEP required the following related services:

- One 30-minute session of counseling services outside general education weekly (“[The student] will receive 1-30 minute session of counseling services weekly with the school psychologist to address her social/emotional/behavioral needs. Parent was in agreement with the provision of those services.”)

2. There is documentation in the form of a statement that on December 6, 2023, an administrator found the student “in the mindfulness room”. The administrator made the student aware of the “DCPS Student Code of Conduct as it pertains to attendance during the school day and extracurricular activities...[and] that Unexcused Absences could result in ineligibility to participate in afterschool activities.” The administrator stated that after the student was located “the [Unexcused Absences] were changed to “Excused by Administration” and the student attended and participated in the wrestling match on December 6, 2023.”
3. There is documentation that the student received support from a trusted adult on December 15, 2023, and December 18, 2023.
4. The February 1, 2024, report of the student’s progress toward achieving the social-emotional/behavioral goals reflects the student was making sufficient progress to meet the goals.
5. On February 8, 2024, the IEP team convened at the complainant’s request to review the student’s IEP. The Prior Written Notice (PWN) generated after the meeting reflects that the complainant requested the meeting because he felt there were instances when the student’s IEP was not implemented as it related to her participation on the wrestling team. The PWN reflects that the complainant discussed a time when the student was told that she would be unable to wrestle that day because she was in the “mindfulness room” and not in class. The DCPS team shared that “[in this instance] the school resource officer, who is also the coach, was informed that [the student] was where she was supposed to be and she was able to wrestle.” The team reported that the student’s IEP had been reviewed with the coaches at the beginning of the season, and the student was having a successful school year, passing her classes, and making progress on her IEP goals. The DCPS team reported that the student was provided the supplementary aids, accommodations, and services required by the IEP. The PWN reflects that the complainant disagreed that the student’s IEP was being implemented.
6. On March 19, 2024, the IEP team reconvened to conduct the student’s annual review. The PWN generated after the meeting reflects the IEP team did not complete the development of the IEP due to the complainant leaving the meeting because the DCPS attorney was present and the complainant did not receive the parental rights booklet with his invitation. The DCPS IEP team members shared that the student’s annual review was due by March 21, 2024, and the team would review the parent’s rights before starting the meeting, however, the complainant declined the offer and requested to reschedule the meeting. The PWN reflects that the DCPS IEP team continued the meeting after the complainant left and would review the information with the complainant at the next meeting. The IEP team agreed to schedule another meeting to review the student’s progress and develop a new IEP. It was decided that the document developed at this meeting would serve as a draft for the next IEP meeting.
7. On April 15, 2024, the IEP team reconvened to develop the student’s IEP. The PWN generated after the meeting reflects that the IEP team reviewed the student’s progress on her annual IEP goals, developed new goals, added a supplementary aid “to address afterschool activities”, and determined services and the least restrictive environment.

The PWN reflects that the student made progress on all of her IEP goals and the IEP team decided to add a “conference with the activity supervisor” to assist with supports for the student such as determining where a safe space would be during the activity if [the student] is feeling anxious or upset. It was reported that the student was currently in an “intensive outpatient program.”

The complainant shared that he did not want the student to attend [REDACTED], and the school-based team shared that the student could attend another district high school “where her least restrictive environment can be provided.” The PWN reflects that the complainant did not agree with the proposed location of the placement.

The PWN reflects that the DCPS IEP team “followed up on the settlement offer that was made on April 4, 2024,” but the complainant shared that he was waiting to hear back from an advocates group. The complainant shared that he wanted the student to attend a private school, and the school-based team shared that “private schools typically don’t implement IEPs and [the] services would be offered through a service plan” depending on the agreement that the school has with the school system where the private school is located. It was also stated that if there was no agreement, and the IEP team determined that the student required a non-public placement, DCPS would “make applications to approved non-public schools that are approved for students with disabilities” and “if the placements are too far away...a residential placement would be a last resort and not the intention of seeking out a placement.”

The PWN reflects that the complainant requested that the student be placed on virtual instruction, and it was explained that “there would be parts of the IEP that could not be implemented if she enrolled in the Bleneed Virtual Program due to the limited amount of time that she would be receiving direct instruction” and certain supplementary aids could not be implemented in the home environment. The team agreed that the home and hospital teaching (HHT) would be more appropriate while the student was receiving intensive outpatient services. The complainant shared that the student was not currently able to access school, and he was provided with the HHT forms.

8. The IEP developed at the April 15, 2024, IEP meeting reflects the student’s primary disability and affected areas remained as on the previous IEP. The PLAAFP data was updated and the student’s current level of performance in social-emotional/behavioral remained the same. The following are the social-emotional/behavioral supplementary aids, services, program modifications, and supports required by the IEP continued and the following supports were added:
- Conference with Afterschool Activities Supervisor, prior to the start of each after-school activity (“Prior to starting an afterschool activity, including sports, a conference will be held that includes the activity supervisor or coach, special education teacher, and school administrator. The focus of that conference would be to discuss where [the student] can take a break in a safe area if needed and de-escalation strategies during the activity. This will also include if the activity/sport includes other locations than [REDACTED].”); and
  - Home-school communication system, periodically (“When [the student’s] behavior becomes escalated and [the student] requests to speak to a parent, she will be permitted to contact home in a designated location. Trusted adults in the main office will also be permitted to contact home to assist with the de-escalation of her behavior when appropriate.”)

The IEP required the following social-emotional/behavioral goals:

- “During counseling sessions, [the student] will identify, challenge, and replace biased, fearful self-talk with reality-based, positive self-talk in 4 out of 5 trials, by 3/18/2025.”
- “During counseling sessions, given a real-life situation that [the student] has experienced, she will use a variety of coping skills to regulate behavior with a positive response in 4 out of 5 trials, by 3/18/2025.”

The counseling services required by the IEP continued.

9. The April 15, 2024, report of the student’s progress toward achieving the social-emotional/behavioral goals reflects that the goals included newly introduced skills and “progress not measurable at this time.”
10. The June 12, 2024, report of the student’s progress toward achieving the social-emotional/behavioral goals reflects the student was making sufficient progress to meet the goals.
11. Documentation in the form of a hall pass log reflects the student accessed the “mindfulness room” 19 times between September 7, 2023, and June 13, 2024. This information does not consider days when the student was absent from school or if the student attended the “mindfulness room” prior to going to class, which prevented her attendance in the room from being electronically recorded.

**CONCLUSION:**

Based on the Findings of Fact #1 to #11, MSDE finds that the DCPS has ensured that the student has been provided the social-emotional supports required by the IEP since December 2023, in accordance with 34 CFR §§ 300.101 and .323, and that the student was not denied the opportunity to receive guided problem-solving from a trusted adult and the use of the “Mindfulness Room” to de-escalate without receiving punishment. Therefore, this office finds that no violation occurred concerning the allegation.

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

**Annual Review**

Each public agency must ensure that the IEP team reviews the child's IEP periodically, but not less than annually. (34 CFR § 300.324).

In this case, the student’s annual review was due by March 21, 2024. The IEP team met on March 19, 2024, to conduct the student’s annual review, however, the IEP was not developed until April 15, 2024.

Based on the Findings of Fact #1, #6, and #7, MSDE finds that the DCPS did not ensure that the student’s IEP was reviewed by March 21, 2024, to ensure that it was reviewed at least annually, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred concerning the allegation.

Notwithstanding the violation, based on Finding of Fact #7, MSDE finds that DCPS developed the student’s annual IEP on April 15, 2024. Therefore, no further student-specific corrective action is required.

**CORRECTIVE ACTIONS AND TIMELINES:**

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 days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office’s decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

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The parties maintain the right to request mediation or to file a due process complaint if they disagree with the identification, evaluation, placement, or provision of a Free Appropriate Public Education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. The 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: W. David Bromwell, Jr., Superintendent, DCPS  
[REDACTED], Principal, [REDACTED] School, DCPS  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
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