

June 7, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Case: #24-191

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 April 8, 2024, MSDE received a complaint from [REDACTED], hereafter, “the complainant”, on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The BCPS has not ensured that the student has been consistently provided with the special education instruction, supplementary aids and services, and related services as required by the Individualized Education Program (IEP) since May 2023, in accordance with 34 CFR §§300.101 and .323.
2. The BCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student’s education record since November 2023, in accordance with 34 CFR §300.613.
3. The BCPS did not ensure that accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meetings, since February 2024, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.03B(9).
4. The BCPS did not provide a copy of the IEP document within five business days after the IEP team meetings held since February 2024 in accordance with COMAR 13A.05.01.07.

5. The BCPS did not provide prior written notice of the IEP team's decisions from the IEP team meetings, since February 2024, in accordance with 34 CFR §300.503.
6. The BCPS did not provide procedural safeguards since February 2024, in accordance with 34 CFR §300.504.

BACKGROUND

The student is 12 years old and attends [REDACTED]. She 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

PROVISION OF SPECIAL EDUCATION INSTRUCTION, SUPPLEMENTARY AIDS AND SERVICES, AND RELATED SERVICES

FINDINGS OF FACT:

1. On May 1, 2023, the student was enrolled at [REDACTED].
2. The IEP in effect on May 1, 2023, was developed on June 7, 2022. The IEP reflects the student's disability impacts: math calculation, math problem solving, self-management, and social/emotional/behavioral. The IEP further requires the following supplementary aids, services, program modifications, and supports:
 - daily - have student repeat and or paraphrase information, written math, homework review, homework folder, break down assignments into smaller units, chunking of texts, strategies to initiate and sustain attention, use of positive/concrete reinforcers, frequent eye contact/proximity control, preferential seating, adult support;
 - periodically - sensory strategies; and
 - monthly once per month- social work (SW) consult with teacher/staff.

The IEP requires five hours of specialized instruction weekly inside of the general education classroom; two hours of specialized instruction education outside of the general education setting; occupational therapy (OT) for 30 minutes per month inside the general education classroom; and OT for 30 minutes per month outside of the general education classroom.

3. On May 22, 2023, the IEP team convened to hold the student's annual review meeting. The IEP reflects that the student's disability impacts: math calculation, self-management, and social/emotional/behavioral.

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

- Daily - have student repeat and or paraphrase information, written math, homework review, homework folder, allow the use of manipulatives, provide the student with copy of student, teacher notes, breakdown assignments into smaller units, chunking of text, strategies to initiate and sustain attention, use of positive concrete reinforcers, frequent eye contact, proximity control, provide verbal handwriting cues and reminders, and preferential seating;
- Weekly – adult support;
- Periodically – sensory strategies;

- Monthly – SW indirect and direct services to consult with teacher/staff outside agency; and
- Quarterly twice per month per quarter – OT consult (with teachers).

The IEP requires five hours of specialized classroom instruction inside the general education setting per week; two hours of specialized classroom instruction outside of the general education setting per week; and transportation services. The IEP further requires 15 hours of specialized classroom instruction outside the general education setting per week during extended school year (ESY) services during the summer of 2023.

4. There is no documentation of the provision of specialized classroom instruction, supplementary aids and services, and OT from May 2023 through June 2023, as required by the IEP.
5. There is no documentation of the provision of specialized classroom instruction, and supplementary aids and services during ESY 2023, as required by the IEP.
6. The student has been enrolled at [REDACTED] since the beginning of the 2023-2024 school year.
7. While there is some documentation of the provision of supplementary aids and services since the beginning of the 2023-2024 school year, it was not consistently provided as required by the IEP.
8. There is no documentation of the provision of specialized classroom instruction during the 2023-2024 school year, as required by the IEP.
9. There is no documentation to support the allegation that the student was not provided with transportation as a related service, as required by the IEP.

CONCLUSION:

Special Education Instruction, Supplementary Aids And Services, And Related Services

May 2023 - June 2023

In this case, the complainant alleges that the student was not provided with instruction to address the student's math goal. Additionally, the complainant alleges there were two occasions during the first quarter of the 2023- 2024 school year that he picked the student up from school.

Based on the Findings of Fact #2 through #5, MSDE finds that the BCPS has not provided specialized classroom instruction from May 2023 through ESY 2023, supplementary aids and services, and OT as required by the IEP from May 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.

August 2023

Based on the Findings of Fact #3, #7, and #8, MSDE finds that the BCPS has not consistently provided the specialized classroom instruction, supplementary aids, and services, 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 occurred concerning this aspect of the allegation.

Although the complainant states he had to pick the student up from school as a result of the student missing the bus, there is no documentation to support the allegation that the student was not provided with transportation as a related service.

Based on the Findings of Fact #3 and #9, MSDE finds that the BCPS has ensured the student was provided transportation as a related service 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 2

ACCESS TO STUDENT RECORDS

FINDINGS OF FACT:

10. On February 23, 2024, the complainant emailed BCPS staff the following: “In order to help me prepare, please send any documents (work samples, data on behavior, drafted amendments, etc.) that we may discuss to determine her present levels and revise the IEP as needed.”
11. There is no documentation that BCPS responded to the complainant’s request for documents.

CONCLUSION:

Based on the Findings of Fact #10 and #11, MSDE finds that the BCPS did not ensure that proper procedures were followed in responding to a request to inspect and review the student’s education record made on February 23, 2024, in accordance with 34 CFR §300.613. Therefore, this office finds that a violation occurred concerning this allegation.

ALLEGATIONS #3, #4, #5, AND #6

PROVISION DOCUMENT FIVE DAYS BEFORE IEP TEAM MEETINGS, PROVISION OF IEP DOCUMENTATION AFTER IEP TEAM MEETING, PROVISION OF PRIOR WRITTEN NOTICE AND PROCEDURAL SAFEGUARDS

FINDINGS OF FACT:

12. The Prior Written Notice (PWN) generated after the IEP team meeting on February 8, 2024, reflects that the IEP team convened to review and revise the IEP as requested by the complainant. Specifically, the complainant requested to address concerns about the student’s grade in Spanish class and introduction of the math goal during the first quarter 2023-2024 school year. The PWN reflects the student’s special education, math, reading, and Spanish teachers attended the meeting. The student’s academic progress and behavior was reviewed. In response to the complaint’s concern regarding the student’s math goal, the BCPS IEP team shared that the fraction goal addressing “forms of fractions such as ratios and percentages were addressed during the 2nd quarter. There was also sufficient progress to support her progress towards meeting the goal.” The PWN reflects that the IEP team did not propose or make changes to the IEP.
13. There is documentation that on February 23, 2024, the PWN was provided to the parent.

14. On March 4, 2024, the complainant emailed the IEP team with concerns that the following information was not included in the PWN developed on February 23, 2024:
 - “I asked for a new IEP to be written because the case manager said it was vague and she didn't think it was appropriate,
 - I asked for [student] to get a progress report and the vice principal suggested a virtual report which was not entirely explained or implemented,
 - I asked for work samples, data on behavior, drafted amendments, etcetera. I was not afforded anything other than a workbook which to my understanding cannot even be used as data,[and]
 - We talked about me buying an agenda book and the teachers signing it and even I proposed this in an email to [teacher] which she rejected.”

15. There is documentation that on March 11, 2024, an amended PWN was emailed to the complainant. The amended PWN reflects the following parent concerns were not included in the PWN provided on February 23, 2024:
 - “a progress note for a math goal indicated that the goal had not yet been started;”
 - The in-person meeting scheduled for November 30, 2023, was changed to a virtual meeting via teams due to the school being placed on lock out/lock-down mode. The complainant declined the meeting via teams. The meeting was rescheduled on two additional locations and occurred on February 8, 2024;
 - The Occupational Therapist attended the meeting to formally dismiss the student from OT services. It was left on the IEP in error during the student’s 5th grade year;
 - The complainant was provided with the student’s progress report, anecdotal data, and work samples, to demonstrate the math goal was addressed during the second quarter of the 2023-2024 school year; and
 - The team agreed to provide paper-based fraction worksheets for the student to practice at home, the student will also work on fractions during her math period.

16. On April 24, 2024, the BCPS staff emailed the complainant notice of the May 16, 2024, IEP team meeting, notice of documents, and the Maryland Procedural Safeguards Notice. The meeting notice reflects the purpose of the meeting is to “conduct annual review of IEP and discussion of need for extended school year services.”

CONCLUSIONS:

Documents Before Meeting

Based on the Findings of Fact #12, MSDE finds that the IEP team meeting on February 8, 2024, was the result of a parent requested meeting. Because the team did not prepare any documents for the meeting, there was no documentation to provide to the complaint at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.03B(9). Therefore, this office finds that a violation did not occur concerning this allegation.

Based on the Findings of Fact #15, MSDE finds that the BCPS did ensure that accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at the IEP team meeting scheduled for May 16, 2024, was provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.03B(9).

IEP Document Within Five Business After The Meeting

Based on the Findings of Fact #11, MSDE finds that the IEP team meeting on February 8, 2024, did not result in changes to the IEP. As a result, the BCPS was not required to provide a copy of the IEP document within five business days after the IEP team meeting held on February 8, 2024, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation did not occur concerning this allegation.

Prior Written Notice

Based on the Findings of Fact #13 and #15, MSDE finds that the BCPS provided prior written notice of the IEP team's decisions from the IEP team meeting held on February 8, 2024, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur concerning this allegation.

Procedural Safeguards

Based on the Findings of Fact #16, MSDE finds that the BCPS has provided procedural safeguards to the complainant since February 2024, in accordance with 34 CFR §300.504. Therefore, this office finds that a violation has not occurred concerning this allegation.

CORRECTIVE ACTIONS AND 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.^[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.

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.^[2] 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 August 15, 2024, that BCPS has responded to the parent's February 23, 2024, request for records and 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 related to implementation of the student's IEP during the school year and during ESY and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

¹ 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, 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.

² The MSDE will notify the public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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

School-Based

MSDE requires BCPS to provide documentation by September 1, 2024, of the steps taken to ensure that the violation does not recur at [REDACTED] and [REDACTED].

- a. Development of tools or documents to monitor the provision of specialized classroom instruction and supplementary aids and services, the response to a request to review student records; and
- b. Provide MSDE with a completed monitoring tool for 10 students from each school reflecting consistent implementation of supplementary aids and services, by October 30, 2024.

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 Hickman Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/ra

- c: Dr. Myriam Rogers, Superintendent, BCPS
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS
Charlene Harris, Supervisor of Compliance in the Department of Special Education, BCPS
[REDACTED], Principal [REDACTED], BCPS
[REDACTED], Principal [REDACTED], BCPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Dr. Paige Bradford, Chief, Specialized Instruction, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief Dispute Resolution, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE