

August 2, 2024

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Ms. Denise Mabry
Director of Compliance & Due Process, Special Education
Baltimore City Public Schools
200 E. North Avenue, Room 204 B
Baltimore, Maryland 21202

RE: [REDACTED]
Reference: #24-249

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.

ALLEGATIONS:

On June 3, 2024, MSDE received a complaint from Mr. Keith McCroey, hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City 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 comprehensively evaluated in all areas of suspected need since August 2023, in accordance with 34 CFR §§ 300.301, and .304-.311, and COMAR 13A.05.01.04 -.06.
2. The BCPS has not ensured that the student’s Individualized Education Program (IEP) contains measurable annual goals since August 2023, in accordance with 34 CFR § 300.323.
3. The BCPS has not ensured that the student was 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.
4. The BCPS has not ensured that the parent was provided with reports of the student’s progress toward achieving the annual IEP goals since August 2023, in accordance with 34 CFR § 300.320.

5. The BCPS has not developed an IEP that addresses all of the student's identified needs since August 2023, in accordance with 34 CFR § 300.324.
6. The BCPS has not followed proper procedures when disciplinarily removing the student from school since August 2023, in accordance with 34 CFR §§ 300.530 – 300.536, COMAR 13A.08.03, and COMAR 13A.05.01.10.
7. The BCPS did not follow proper procedures when responding to a request for an Independent Education Evaluation (IEE) for the student during the 2023-2024 school year in accordance with 34 CFR § 300.502 and COMAR 13A.05.01.14.
8. The BCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at IEP team meetings, including the draft IEP, during the 2023-2024 school year at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
9. The BCPS did not ensure that proper procedures were followed when determining the student's educational placement for the 2024-2025 school year, in accordance with 34 CFR §§ 300.114 - .116.
10. The BCPS did not provide the parent with a copy of the IEP document within five (5) business days after the IEP team meetings during the 2023-2024 school year, in accordance with COMAR 13A.05.01.07.

BACKGROUND:

The student is 17 years old and is identified as a student with Intellectual Disability (ID) under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The student's IEP in effect in August 2023 is dated November 10, 2022. The IEP reflects the student's disability as Other Health Impairment (OHI) with math calculation, math problem solving, reading comprehension, written language content, and self-management as the areas that are impacted by the disability.

The Present Level of Academic Achievement and Functional Performance (PLAAFP) in the IEP reflects the student was performing on the following instructional levels:

- Reading comprehension - mid-3rd grade;
- Math calculation - early 3rd grade;
- Math problem-solving - mid-3rd grade;
- Written language content - mid-3rd grade; and
- Self-management - below age level.

The IEP required the following instructional and assessment accommodations:

- Blank scratch paper;
- General administration directions clarified;
- General administration directions read aloud and repeated as needed;
- Highlight tool;

- Pop-up glossary;
- Redirect student;
- Writing tools;
- Graphic organizer;
- Student reads content aloud to him/herself;
- Text-to-speech for mathematics, science, and government assessment;
- Small group;
- Frequent breaks;
- Reduce distractions to self;
- Reduce distractions to others;
- Closed captioning of multimedia passages;
- Text to speech for ELA/Literacy assessments, including items, response options, and passages;
- Calculation device and mathematics tools (on calculation and non-calculation sections of the mathematics assessment);
- Monitor test response; and
- Extended time (1.5x).

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

- Allow use of manipulatives, daily;
- Monitor independent work, daily;
- Allow use of organizational aids, daily;
- Frequent and/or immediate feedback, daily;
- Use of word bank to reinforce vocabulary and/or when extended writing is required, daily;
- Check for understanding, daily;
- Have student repeat and/or paraphrase information, weekly;
- Provide alternative ways for student to demonstrate learning, weekly;
- Repetition of directions, weekly;
- Break down assignments into smaller units, daily;
- Altered/modified assignments, daily;
- Encourage student to ask for assistance when needed, weekly; and
- Home-school communication system, monthly.

The IEP included the following IEP goals:

- Reading comprehension: "By November 2023, given a graphic organizer and an instructional-level literary text, and 10 text-dependent questions with explicit and implicit claims, [the student] will write 1 citation to support the claim with 80% accuracy as measured by classroom-based assessments."
- Self-management: "By November 2023, given direct psychological services, [the student] will further improve his executive functioning, communication, emotion regulation, impulse-control, prosocial behavioral skills, and self-efficacy in the school setting from 60% to 80% to increase academic engagement as indicated by teacher data and observation."
- Written Language Expression: "By November 2023, given a grade-level text-dependent writing prompt and a graphic organizer, [the student] will use pre-writing, drafting, revising, and editing and apply them as needed when instructed to write a three-paragraph essay with 80% accuracy as measured by classroom-based assessments."
- Math problem-solving: "By November 2023, when given a graphic organizer and 10 linear equations, [the student] will chart using strategies involving inverse operations and both positive and negative integers to solve with 80% accuracy as measured by classroom-based assessments."

- Math calculation: “By November 2023, when given 10 addition and/or subtraction problems within 1,000, [the student] will select a strategy to solve the problems (e.g. place value strategy, standard algorithm, properties of operations) with 80% accuracy as measured by classroom-based assessments.”

The IEP required the following special education services:

- 4 one-hour and 10-minute sessions of classroom instruction daily, outside general education - “The special education teacher wills [sic] provide classroom instruction in Math, English, Science, and Social Studies outside of the general education setting to address his goals in reading, math and written language.”
- One 15-minute session of psychological services, weekly, inside general education - “The [student] may be seen individually or as part of a group. In-person sessions are available the psychologist will provide one 15-minute session per week to address self-management goals. These services will be provided via school mental health provider.”

The Least Restrictive Environment (LRE) required by the IEP is inside general education less than 40% of the school day.

2. The self-management goal is not measurable as written, however, progress reported for the student’s achievement toward the self-management IEP goal dated October 30, 2023, reflects the student was making sufficient progress to meet the goal.
3. The reading comprehension and written language expression goals contained in the November 10, 2022, IEP are not measurable as written.
4. On November 7, 2023, the IEP team convened to review and revise the student’s IEP and discuss the student's progress toward IEP goals, attendance, and evaluation/reevaluation assessments. The PWN generated after the meeting reflects that the IEP team reviewed the data and information provided and agreed to update the student's goals and objectives in reading comprehension, written expression, math calculation, and math problem-solving. The team determined that “updated formal assessments were needed to ensure that [the student] is properly placed” and receives special education services. The team agreed that the student would be assessed in academic performance, intellectual/cognitive functioning, and emotional/social/behavioral development. The team determined that the student did not require communication or assistive technology devices or services.

The team decided to increase the student’s psychological services to one 30-minute session per week, with no changes needed to the student's instructional and testing accommodations or supplementary aids, program modifications, supports, and services.

The team agreed the student continued to be eligible for special education services under OHI and his Attention Deficit Hyperactivity Disorder (ADHD) continued to affect his engagement in the general education curriculum in reading, math, and written language because the student is easily distracted, has difficulty controlling his impulses, completing work independently, and communicating his thoughts and feelings when frustrated. The student’s weakness in visual perceptual motor skills impacts his ability to write independently. The student requires instruction in a small group setting outside of general education because his “attentional and concentration difficulties impair his performance in a large group setting.”

The PWN further reflects that the team discussed the student's Least Restrictive Environment (LRE) and decided it to be inside general education for less than 40% of the school day.

5. The student's next IEP is dated November 7, 2023. The IEP reflects the student's disability as OHI with math calculation, math problem solving, reading comprehension, written language expression, and self-management as the areas affected by the disability.

The IEP reflects the student was performing on the following instructional levels:

- Reading comprehension - mid-3rd grade;
- Math calculation - late 5th grade;
- Math problem-solving - mid 5th grade;
- Written language expression - mid-3rd grade; and
- Self-management - no skill level reported.

The IEP required the following instructional and assessment accommodations:

- Blank scratch paper;
- General administration directions clarified;
- General administration directions read aloud and repeated as needed;
- Highlight tool;
- Pop-up glossary
- Redirect student
- Writing tools;
- Graphic organizer;
- Student reads content aloud to him/herself;
- Text-to-speech for mathematics, science, and government assessment;
- Small group
- Frequent breaks;
- Reduce distractions to self
- Reduce distractions to others
- Closed captioning of multimedia passages;
- Text to speech for ELA/Literacy assessments, including items, response options, and passages;
- Calculation device and mathematics tools (on calculation and non-calculation sections of the mathematics assessment);
- Monitor test response; and
- Extended time (1.5x).

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

- Allow use of manipulatives, daily;
- Monitor independent work, daily;
- Allow use of organizational aids, daily;
- Frequent and/or immediate feedback, daily;
- Use of word bank to reinforce vocabulary and/or when extended writing is required, daily;
- Check for understanding, daily;
- Have student repeat and/or paraphrase information, weekly;
- Provide alternative ways for student to demonstrate learning, weekly;
- Repetition of directions, weekly;
- Break down assignments into smaller units, daily;

- Altered/modified assignments, daily;
- Encourage student to ask for assistance when needed, weekly; and
- Home-school communication system, monthly.

The IEP required the following IEP goals:

- Math calculation: "By November 2024 with the assistance of process charts and a calculator when given a set of 10 problems involving one and/or combination of the four operations, [the student] will add, subtract, divide and/or multiply multi-digit whole numbers with regrouping with 80% accuracy as measured by classroom-based assessments."
- Self-management: "By November 2024, given direct psychological services, [the student] will use self-advocacy, executive function, and emotional regulation skills to improve his academic engagement to 85% as indicated by teacher data and observation."
- Reading comprehension: "By November 2024 with the assistance of a graphic organizer [the student] will develop literary skills and strategies such as determining theme and using context to find word meanings from 3rd grade level to a mid-4th grade level with [sic] as measured by informal procedure with 80% accuracy."
- Reading comprehension: "By November 2024 with the assistance of [a] graphic organizer, when presented with a passage [the student] will identify a sequence of events, main ideas, and details and/or facts in literary and informational text with 80% accuracy as measured by classroom-based assessments."
- Written Language Expression: "By November 2024 with the assistance of [a] graphic organizer [the student] will write a 4-paragraph essay with a focused main idea and supporting details on a topic for a variety of audiences and purposes with 80% accuracy as measured by classroom-based assessments and a writing rubric."
- Math problem solving: "By November 2024 with the assistance of process charts and constructive tools [the student] will learn about geometric shapes (triangular, rectangular, circle, square etc.) area, surface area, and circumference with 80% accuracy as measured by informal assessments."

The IEP required the following special education services:

- 4 one-hour and 30-minute sessions of classroom instruction daily, outside general education; and
- "The special education teacher will [sic] provide classroom instruction in Math, English, Science and social studies outside of the general education setting to address his goals in reading, math and written language."
- One 30-minute session of psychological services, weekly, outside general education. "These services will be provided in a group or individual setting."

The LRE required by the IEP is inside general education less than 40% of the school day.

6. The math problem-solving goal included in the November 7, 2023, IEP is not measurable as written.
7. The student's January 24, 2024, educational assessment report reflects that the student performed in the low to very low range in all academic subtests.
8. On February 5, 2024, the IEP team convened to "review and discuss the results of [the] educational assessments." The PWN generated after the meeting reflects that the team reviewed the results of the Woodcock-Johnson IV Tests of Achievement Form A (WJ IV ACH). It was noted that the student

showed strengths in letter-word identification and writing, passage comprehension, applied problems, and math calculations were the student's areas of need. The "team proposed to reconvene after [the student] returns to school to be tested by the school psychologist."

The school psychologist reviewed the student's progress during psychological sessions and proposed to continue the current services. The team agreed to add the following supplementary services to the student's IEP:

- Use of pictures to support reading passages, whenever possible; and
- Classroom consult.

The team updated the student's Present Level of Academic Achievement and Functional Performance (PLAAFP) to include information from the educational assessment and updated the student's goals and objectives to address the student's needs.

The PWN reflects that the student "has been at home still recovering from injuries sustained outside school. The incident also caused his glasses to be broken, which he relies upon for academic tasks. Therefore, he was unavailable to be assessed. [The parent] consented to moving forward with the reevaluation meeting to review educational assessments. [The student] will be assessed upon his return and the team will reconvene on another date to review the results of psychological assessment." The "student's glasses are specially made and take 3 weeks to complete. Psychological testing will not be possible until he recovers from his injuries and is equipped with his new glasses."

The PWN further reflects the team determined that the student was eligible for transportation.

9. The February 5, 2024, IEP continued the student's primary disability, areas affected by the disability, special education instructional services, and LRE. The PLAAFP in reading comprehension, math calculation, math problem-solving, and written language expression were updated to include data from the recent educational assessment. The supplementary aids and services provided by the IEP were updated to include "use of pictures to support reading passages, whenever possible, daily" and "classroom instruction consult, monthly - the special education teacher will consult with teachers to discuss [the student's] progress with goals/objectives, academics, attendance, and behaviors." The special education classroom instruction in the IEP reflects:
 - "[The student] will receive 1 hour and 30 minutes 5x per week of specialized instruction for reading and writing from the special educator. His reading will be addressed with the use of Achieve 3000, graphic organizers, and specially designed instruction via accommodations, supplementary aids, supports which will be reported by progress reports quarterly."
 - "[The student] will receive 1 hour and 30 minutes 5x per week of specialized instruction for social studies. His reading will be with the use of Achieve 3000, graphic organizer, and specially designed instruction via accommodations, supplementary aids, supports."
 - "[The student] will receive 1 hour and 30 minutes 5x per week of specialized instruction for math from the special educator, which will be addressed with the use of Imagine Math, calculators, graphic organizers, and special signed specially designed instruction via accommodations, supplementary aids, supports which will be reported by progress reports quarterly."
10. On February 15, 2024, the student received a psychological assessment for which the assessment report was completed on March 6, 2024. Results from the Wechsler Intelligence Scale Children, Fifth Edition (WISC-V) reflect the student's fluid reasoning in the "very low" range, and his verbal comprehension, visual-spatial, working memory, and processing speed in the "extremely low" range.

Results from the Vineland-3 reflect the student was performing in the low range in adaptive behavior, communication, daily living skills, and socialization.

11. On March 13, 2024, the IEP team reconvened to review and discuss the results of the psychological assessment. The PWN generated after the meeting reflects the student had low scores “across the board, particularly in socialization” and the school psychologist proposed changing the student’s disability category to Intellectual Disability (ID).

The PWN reflects that the IEP team discussed and proposed completing a “Student Performance Review Request¹” (SPRR) form to determine “eligibility for a change of placement; alternate assessments; [and a] one-to-one” for the student. The team discussed the parent’s concerns for the student’s safety. The PWN also reflects that based on the data reviewed the team determined that the student was not eligible for transportation.

The student’s full-scale IQ is 55, which is in the extremely low range, and “the student performs more than five years below grade level in reading, written expression, math calculation, and math problem-solving.” “After reviewing and discussing current formal and informal assessments, teacher progress reports, and school data” the team determined that the student’s current LRE, “less than 40% of the school day inside the general education classroom in a self-contained classroom where he receives specialized instruction for reading, math, science, and social studies is the most appropriate at this time to address his reading, writing, and math needs...in a small group setting outside of the general education setting to address the areas of delay that are impacted by his disability.”

The school psychologist proposed to continue services via teacher consult to “discuss strategies in implementing instructional accommodations, supplementary aids, modifications, and support for 1x per month for 30 minutes.” The team determined that the student’s other supplementary aids and services were still appropriate.

The PWN further reflects that the parent and BCPS administrative staff would discuss the student’s concerns about bullying “separately as it was a school administrative matter that must follow district policies on bullying.”

12. The March 13, 2024, IEP reflects the student’s primary disability as ID with areas impacted by the disability listed as cognitive, math calculation, math problem-solving, reading comprehension, written language expression, and self-management.

The PLAAFP data was updated to reflect the student’s instructional grade level performance as extremely low.

The supplementary aids, services, program modifications, and supports were updated to include “psychologist consult, monthly - “The school psychologist will consult with [the student’s] teachers to help improve his attention and work completion in class.”

¹ A SPRR form is used to request assistance from the BCPS District office when a school-based team feels that a student may need a more restrictive placement.

The goals required by the IEP were updated to reflect the following:

- Written language expression: “By March 2025 with the assistance of graphic organizer [the student] will write a 4 paragraph essay with a focused main idea and supporting details on a topic for a variety of audiences and purposes with 80% accuracy as measured by classroom-based assessments and a writing rubric.”
- Reading comprehension: “By March 2025 with the assistance of a graphic organizer, [the student] will develop literary skills and strategies and use context to find word meanings from the 2nd-grade level to a mid-3rd-grade level as measured by informal procedures with 80% accuracy.”
- Reading comprehension: “By March 2025 with the assistance of a graphic organizer, when presented with a passage [the student] will identify a sequence of events, main ideas, and details and/or facts in literary and information text with 80% accuracy as measured by classroom-based assessments.”
- Math problem-solving: “By March 2025 with the assistance of a process chart and calculator when given 10 math calculation problems [the student] will demonstrate using identity, associative, commutative, and distributive properties when solving multi-step math problems, and expressions with 80% accuracy as measured by classroom-based assessments.”
- Math calculation: “By March 2025 with the assistance of process charts and a calculator when given a set of 10 problems involving one and/or combination of the four operations, [the student] will add, subtract, divide and/or multiply 1-2 digit whole numbers with regrouping to the late 3rd-grade level with 80% accuracy as measured by classroom-based assessments.”
- Self-management: “By March 2025, given indirect psychological services, [the student] will use strategies to manage his attention and emotions to improve his academic engagement to 85% as indicated by teacher data and observation.”

The special education classroom instruction and LRE required by the IEP continued.

13. On April 26, 2024, the IEP team reconvened for a parent-requested IEP meeting. The PWN generated after the meeting reflects that the IEP team reviewed and discussed the data in the PLAAFP, educational services, and instructional and testing accommodations required by the student’s most current IEP and determined that based on the data and information available the information remained appropriate. The PWN reflects the team considered alternate assessments for the student, and the parent did not provide consent. The PWN reflects that “the caregiver will meet with the administration to address concerns related to safety [and] the IEP team will reconvene for the continuation of the parent-requested IEP meeting to review data from the observation of [the student] to determine if additional services are needed to meet his needs.” There were no changes made to the student’s IEP.
14. On April 29, 2024, school-based administrative staff emailed the parent to set up a time to discuss the development of a safety plan for the student.
15. On May 15, 2024, the IEP team reconvened to continue the parent-requested IEP meeting. The PWN generated after the meeting reflects the IEP team proposed to consider the alternative framework for the student, and after reviewing the criteria the parent requested additional time to consider this option. There were no changes made to the student's IEP.

16. On June 5, 2024, the IEP team reconvened to continue the parent-requested IEP meeting. The PWN generated after the meeting reflects that the IEP team reported that the student met the criteria for the alternate framework and reviewed the criteria with the parent and the parent declined to provide consent for this change.

The PWN reflects that the school psychologist agreed to increase the student's services to twice a month for 30 minutes to "address [the student's] social misunderstandings" and the direct psychological services will help the student understand certain dynamics of relationships with friends. The school psychologist also agreed to continue consultation services twice a month during which the psychologist will "work with [the student's] teachers to manage his attention while he is in class."

The PWN reflects the parent requested an Independent Educational Evaluation (IEE) and declined parental consent to the alternate framework.

17. The March 13, 2024, IEP was not amended to include the decisions made at the June 5, 2024, IEP team meeting.
18. The June 13, 2024, progress reported for the student's achievement toward the self-management IEP goal reflects the student was making sufficient progress to meet the goal.
19. On July 17, 2024, the BCPS responded to the parent's request to fund an IEE for an educational assessment of academic performance.
20. There is no documentation that the student was disciplinarily removed from school during the 2023-2024 school year.
21. With the exception of the self-management goal, there is no documentation of progress reporting for the student's IEP goals during the 2023-2024 school year.
22. In its written response the BCPS acknowledges:
 - it has not ensured that the student was provided with the special education instruction and related services required by the IEP since August 2023;
 - it has not ensured that the parent was provided with reports of the student's progress toward achieving the annual IEP goals since August 2023, in accordance with 34 CFR § 300.320;
 - it did not follow proper procedures when responding to a request for an (IEE) for the student during the 2023-2024 school year;
 - it did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at IEP team meetings, including the draft IEP, during the 2023-2024 school year at least five business days before the scheduled meeting; and
 - it did not provide the parent with a copy of the IEP document within five business days after the IEP team meetings during the 2023-2024 school year.

CONCLUSIONS:

ALLEGATION #1 EVALUATION IN ALL AREAS OF SUSPECTED NEED

Based on the Findings of Fact #4, and #7 to #11, MSDE finds that the BCPS has ensured that the student was comprehensively evaluated in all areas of suspected need since August 2023, in accordance with 34 CFR §§ 300.301 and .304-.311, and COMAR 13A.05.01.04 -.06. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #2 AN IEP THAT CONTAINS MEASURABLE ANNUAL GOALS

Based on the Findings of Fac #2, #3 and #6, MSDE finds that the BCPS has not ensured that the student's IEP contains measurable annual goals since August 2023, in accordance with 34 CFR § 300.323. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #3 PROVISION OF SPECIAL EDUCATION INSTRUCTION AND RELATED SERVICES

Based on the Finding of Fact #22, MSDE finds that the BCPS has not ensured that the student was 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 occurred concerning the allegation.

ALLEGATION #4 PROVISION OF PROGRESS REPORTS

Based on the Finding of Fact #22, MSDE finds that the BCPS has not ensured that the parent was provided with reports of the student's progress toward achieving the annual IEP goals since August 2023, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #5 IEP THAT ADDRESS THE STUDENT'S NEEDS

Based on the Findings of Fact #1, #2, #3 to #13, #15 to #17, MSDE finds that the BCPS has not developed an IEP that addresses all of the student's identified needs since August 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #6 DISCIPLINARY PROCEDURES

Based on the Finding of Fact #20, MSDE finds that the BCPS has not disciplinarily removed the student from school since August 2023, in accordance with 34 CFR §§ 300.530 – .536, COMAR 13A.08.03, and COMAR 13A.05.01.10. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #7 PROPER PROCEDURES WHEN RESPONDING TO AN IEE

Based on the Finding of Fact #22, MSDE finds that the BCPS did not follow proper procedures when responding to a request for an IEE for the student during the 2023-2024 school year in accordance with 34 CFR § 300.502 and COMAR 13A.05.01.14. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #8 PROVISION OF IEP DOCUMENT FIVE DAYS PRIOR TO IEP MEETING

Based on the Finding of Fact #22, MSDE finds that the BCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at IEP team meetings, including the draft IEP, during the 2023-2024 school year at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

ALLEGATION #9 PLACEMENT DETERMINATION

Based on the Findings of Fact #4, #5, #9 to #12, MSDE finds that the BCPS did ensure that proper procedures were followed when determining the student's educational placement for the 2024-2025 school year, in accordance with 34 CFR §§ 300.114 -.116. Therefore, this office finds that no violation occurred concerning the allegation.

ALLEGATION #10 PROVISION OF IEP DOCUMENT FIVE DAYS AFTER AN IEP MEETING

Based on the Finding of Fact #22, MSDE finds that the BCPS did not provide the parent with a copy of the IEP document within five business days after the IEP team meetings during the 2023-2024 school year, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

REEVALUATIONS

If the IEP team determines the need for additional data, the results of assessment procedures shall be used by the IEP team in reviewing, and as appropriate, revising the student's IEP within 90 days of the IEP team meeting (COMAR 13A.05.01.06).

In this case, the additional assessments were ordered on November 17, 2023, but the results were not reviewed and the IEP was not updated until March 13, 2024.

Based on the Findings of Fact #4, #7, #8, #10 to #12, MSDE finds that the BCPS did not ensure that the reevaluation of the student was completed within the required timelines, in accordance with COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred.

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. 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.² 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. Nicole Green, Compliance Specialist, MSDE, to ensure the effective implementation of the action. Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the BCPS to provide documentation by October 30, 2024, that the IEP team has:

- Provided the student with the special education instruction and related services as required by the IEP;
- Provided the parent with the progress reports for the 2023-2024 school year;
- Updated the student's IEP with measurable annual IEP goals;
- Updated the student's IEP to reflect the IEP team's decisions at the June 5, 2024, meeting regarding psychological services; and
- Convened an IEP team meeting to determine the amount and nature of compensatory services or other remedy to address the lack of provision of specialized instruction and related services and develop a plan for the provision of those services within one year of the date of this Letter of Findings.

School-Based

MSDE requires the BCPS to provide documentation by October 30, 2024, of the steps it has taken to ensure that the staff at [REDACTED] properly implements and documents the requirements under IDEA and COMAR for the provision of special education instruction and related services, the development of measurable IEP goals, IEP progress reporting, the provision of documents before and after an IEP team meeting. These steps must include staff development, as well as tools developed to monitor compliance. Monitoring must include a review of at least 10 randomly selected student records to review for the provision of specialized instruction and related services and the documentation of the services, documentation of the provision of progress reports to families, and inclusion of measurable annual goals. The monitoring report must be submitted to MSDE on or before December 16, 2024. Full compliance is required. If 100% compliance for each requirement is not reported, an additional sample must be reviewed and submitted to MSDE on or before March 17, 2025. If 100% compliance is not reported, BCPS will consult with MSDE on how to proceed.

² 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, 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.

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.

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: Sonja Santelises, Superintendent, BCPS
Christa McGonigal, Educational Specialist II, BCPS
[REDACTED], Principal, [REDACTED], BCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
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