

August 30, 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]
Reference: #24-271

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 on the final results of the investigation.

ALLEGATIONS:

On June 14, 2024, MSDE received a complaint from [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complaint alleged that the Baltimore County Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the above-referenced student.

MSDE investigated the following allegations:

1. 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.
2. The BCPS has not ensured that the student was provided with special education instruction and a dedicated aide as required by Individualized Education Program (IEP), since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is 11 years old and is a student with Specific Learning Disability (SLD) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The IEP, in effect in August 2023, was developed on December 13, 2022. The IEP reflects that the following areas are impacted by the student’s disability: reading phonics; reading comprehension; mathematics; and writing. The IEP requires 12 hours 30 minutes per week of specialized classroom instruction outside of the general education setting.

The IEP requires adult support daily as needed. The “[Student] will have access to additional adult support throughout the school day to support him with remaining on task, following directions, whole group note-taking & understanding of curriculum, work completion, work modifications.”

2. The prior written notice (PWN) developed after the IEP team meeting on October 13, 2023, reflects that the complainant expressed concern with the student’s lack of progress and “was concerned about his school setting.” The complainant also expressed concern with the school’s ability to “program” for the student. The PWN further reflects that in response to the parent’s concerns, the IEP team agreed to additional assessments to “ensure the student is being programmed appropriately and that he is in the right placement.”

The IEP team agreed to conduct receptive language, expressive language, and educational assessments, and a classroom observation. In addition, the IEP team accepted the parent’s private neuropsychological assessment.

The IEP team reviewed the private neuropsychological assessment and noted the student is “severely impaired in core language, receptive language and expressive language.”

3. On December 8, 2023, the IEP team convened to review the educational, speech-language assessments, and classroom observation. The PWN generated after the meeting reflects that the IEP team:
 - reviewed the results from the BCPS education assessment, progress on IEP goals from November 3, 2023, through December 1, 2023, and the speech-language assessment;
 - agreed to change the student’s disability coding from Autism to Specific Learning Disability (SLD) based on the private neuropsychological assessment; and
 - discussed the student’s “LRE, level specialized instruction, support and accommodations required for [the Student] to meet with success on his IEP goals and access the general education setting. The team [has] determined that the [Student] requires an outside general education learning environment that focuses on executive functioning skills as well as slow paced small group instruction with frequent opportunities for reinforcement of previously taught skills. This environment should incorporate hands on multisensory instruction as much as possible.”
4. The IEP developed on December 8, 2023, reflects that the following areas are impacted by the disability: reading phonemic awareness; reading phonics; reading comprehension; math calculation; math problem solving; written language mechanics; written language expression; social/emotional/behavioral; self-management; speech-language receptive language; and speech- language expressive language. The IEP requires 14 hours 33 minutes per week outside of the general education setting, and 19 hours 11 minutes per week inside the general education setting.

The IEP requires adult support daily as needed. The “[Student] will have access to additional adult support throughout the school day to support him with remaining on task, following directions, whole group note-taking & understanding of curriculum, work completion, work modifications.”

The IEP reflects the least restrictive environment (LRE) as a “general education with supplementary aids, accommodations, and services inside and outside of the general education setting.”

2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds that a violation occurred concerning this aspect of the allegation.

Adult Support

Based on the Findings of Fact #1, #3, and #9, MSDE finds that the BCPS has ensured that the student was provided with adult support as required by the IEP, since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds a violation has not occurred concerning this aspect of the allegation.

CORRECTIVE ACTION AND TIMELINE:

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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.^[2] 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 31, 2024, that the BCPS has:

- a. Provided the student with specialized instruction as required by the IEP; and
- b. Determined the amount and nature of compensatory services, or other remedies, to address the violations identified in this Letter of Findings. The IEP team must 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 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.

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

School-Based

MSDE requires the BCPS to provide documentation by November 1, 2024, that it has provided professional development to the staff at [REDACTED] on the provision and documentation of specialized instruction, including updating the student's IEP to reflect the LRE determination.

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/ra

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