

August 9, 2024

Ms. Nicole Joseph
The Law Offices of Nicole Joseph
10421 Stevenson Road #442
Stevenson, Maryland 51153

Ms. Allison Myers
Executive Director
Department of Special Education
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 W. Chesapeake Ave
Towson, Maryland 21204

RE: [REDACTED]
Reference: #24-275

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 14, 2024, MSDE received a complaint from Ms. Nicole Joseph, 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 accommodations, including the Behavior Intervention Plan (BIP) since the start of the 2023- 2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
2. The BCPS did not implement the decision made by the IEP team on December 15, 2023, to provide the student with an additional adult in her math class, in accordance with 34 CFR § 300.101.
3. The BCPS has not ensured that the parent was provided with quarterly progress reports toward achieving the annual IEP goals since the start of the 2023- 2024 school year, in accordance with 34 CFR §§ 300.320 and .323.
4. The BCPS has not ensured that the student’s progress towards achievement of the annual IEP goals were measured as required by the IEP during the 2022-2023 school year, in accordance with 34 CFR §§ 300.101 and .324.

BACKGROUND:

The student is 13 years old and is identified as a student with Other Health Impairments (OHI) under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

SUMMARY OF FINDINGS AND CONCLUSIONS:

In its written response, the BCPS acknowledges that violations occurred with respect to the allegations.

MSDE concurs with the BCPS' conclusions and appreciates the school system's response to the investigation.

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. 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 November 1, 2024, of the following actions:

- The IEP team has convened and amended the student's IEP to address the student's identified need for an additional adult in math class and implemented the amended IEP; and
- Determined the amount and nature of compensatory services or other remedies to redress the violation and developed a plan for the provision of those services within a 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.

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 of the completion of the following:

- Provide professional development to all staff members at [REDACTED] on the provision of special instruction, instructional and testing accommodations and supplementary aids, documenting service delivery, progress monitoring and provision of progress reports by November 1, 2024;
- BCPS will identify and monitor 10 randomly selected IEPs at [REDACTED]. Monitoring will include documentation to show implementation of specialized instruction, accommodations, and supplementary aids and services including the BIP. BCPS will also monitor the issuance of timely and accurate quarterly progress reports towards achievement of the students' annual IEP goals and report the completion to MSDE by November 15, 2024, and February 14, 2025; and
- If the monitoring sample does not meet 100% compliance, BCPS will submit a second sample of students from [REDACTED] on or before April 18, 2025, with the same 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 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/sd

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
Norma Villanueva, Compliance Specialist, BCPS
[REDACTED], Principal, [REDACTED], BCPS
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Sarah Denney, Complaint Investigator, Dispute Resolution, MSDE