

August 15, 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: #24-278

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention 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 18, 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 the student has consistently been provided with the special education instruction, accommodations, and support required by the Individualized Education Program (IEP) during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
2. The BCPS did not ensure that proper procedures were followed when determining the student’s educational placement since June 2023, in accordance with 34 CFR §§ 300.114 -.116.
3. The BCPS did not follow proper procedures when disciplinarily removing the student from school during the 2023-2024 school year, in accordance with 34 CFR § 300.530 and COMAR 13A.08.03.

**BACKGROUND:**

The student is six years old and is a student with Autism under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATIONS #1 and #2**

**PROVISION OF SPECIAL EDUCATION INSTRUCTION,  
ACCOMMODATION, SUPPORT, AND PLACEMENT  
DETERMINATION**

**FINDINGS OF FACT:**

1. The IEP in effect at the beginning of the 2023-2024 school year was developed on May 17, 2023. The IEP requires five hours per week of special education classroom instruction. The IEP does not require accommodations and supplementary aids, services, program modifications and supports. The IEP requires special education placement in the general education setting with related services in the student's home school.
2. On November 1, 2023, the IEP team convened to review and revise the IEP. This IEP requires four hours and thirty minutes of special education classroom instruction per day outside the general education classroom to be provided by the special education teacher. The IEP requires fifty minutes per day of special education classroom instruction inside the general education classroom to be provided by the general education teacher and instructional assistant.

The IEP requires extended time (1.5x) as the accommodation.

The IEP reflects the IEP team considered the following placement options:

- General education with supplementary aids and services – rejected;
- General education with specialized instruction inside the general education classroom with related services – rejected;
- General education with specialized instruction outside the general education classroom with related services – rejected;
- General education with specialized instruction inside and outside the general education classroom with related services – rejected; and
- Outside general education classroom with specialized instruction for related services with opportunities for inclusion during specials, lunch, and recess – accepted.

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

- Daily as needed: program modifications visuals to support communication and comprehension, altered modified assignments, break down assignments into smaller units, simplified sentence structure, vocabulary, and graphics on assignments and assessments, social skills support, use of positive/concrete reinforcers, encourage student to ask for assistance when needed, strategies to support attention/participation/transactions/safe behavior, provide frequent changes in activity or opportunities for movement, and sensory strategies;
- Daily - picture schedule, preferential seating, adult support;
- Quarterly - speech language pathologist consult; and
- As requested by team - AT consult.

The IEP's LRE reflects placement outside of the general education classroom with specialized instruction for related services with opportunities for inclusion during specials, lunch, and recess.

**May 15, 2024, IEP**

The IEP was amended to require the following additional supplementary aids, services, program and daily support: support of small group and an alternate location for lunch.

The amended IEP reflects the IEP team considered the following placement options:

- General education with specialized instruction inside the general education classroom with related services – rejected;
- General education with specialized instruction outside the general education classroom with related services – rejected;
- General education with specialized instruction inside and outside the general education classroom with related services – rejected;
- Outside general education classroom with specialized instruction and related services with opportunities for inclusion during specials, lunch, and recess – rejected; and
- Outside general education classroom with specialized instruction and related services for all content areas, lunch, and specials with opportunities for inclusion during recess – accepted.

The IEP's LRE reflects placement outside the general education classroom with specialized instruction and related services for all content areas, lunch, and specials with opportunities for inclusion during recess.

3. There is documentation that special education instruction, accommodations and support were provided as required by the IEP.

### **CONCLUSIONS AND DISCUSSION:**

#### **Provision of Special Education Instruction, Accommodation, and Support**

Based on the Findings of Fact #1, #2, and #3, MSDE finds that the BCPS has ensured that the student has consistently been provided with the special education instruction, accommodations, and support as required by the IEP during 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 the allegation.

#### **Placement Determination**

In determining the educational placement of a student with a disability, the public agency must ensure that the placement decision is made by the IEP Team. The placement decision must be made in conformity with the least restrictive environment (LRE) provisions, determined at least annually, based on the student's IEP, and as close as possible to the student's home (34 CFR § 300.116).

Based on the Findings of Fact #1 and #2, MSDE finds that the BCPS followed proper procedures when the IEP team determined the placement in which the student would receive special education instruction since June 2023, in accordance with 34 CFR §§ 300.114 and .116. Therefore, this office finds that a violation has not occurred concerning the allegation.

### **ALLEGATION #3**

### **DISCIPLINARY PROCEDURES**

#### **FINDING OF FACT:**

4. On April 25, 2024, a notice of temporary suspension was developed. The notice reflects:
  - The student was suspended for one day for violating the student code of conduct;
  - A conference was scheduled to take place on April 26, 2024; and
  - The resource for Baltimore County Children and Families, and Parental Rights Maryland Procedural Safeguards for students with IEPs, was enclosed with the notice.

## **CONCLUSION AND DISCUSSION**

School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (34 CFR § 300.530).

Based on the Finding of Fact #4, MSDE finds that the BCPS disciplinarily removed the student for only one day, therefore, there was no change in placement triggering the additional protections for students with disabilities under 34 CFR § 300.530 and COMAR 13A.08.03. Therefore, MSDE finds that a violation did not occur.<sup>1</sup>

## **TIMELINE:**

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, 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, Chief, Family Support and Dispute Resolution Branch, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Rabiatu Akinlolu, Complaint Investigator, MSDE

---

<sup>1</sup> MSDE's findings are limited to the application of IDEA and corresponding State law on disciplinary removals of eligible students with disabilities. Nothing in this Letter of Findings precludes the complainant from exercising any rights under local board policy to appeal general school disciplinary actions related to COMAR 13A.08.01.11.