

August 15, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]

Ms. Allison Myers  
Baltimore County Public Schools  
Jefferson Building, 4<sup>th</sup> Floor  
105 W Chesapeake Avenue  
Towson, Maryland 21204

RE: [REDACTED]  
Reference: #24-281

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 20, 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 School (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 has not ensured that the student has been consistently provided with his supplementary aids and accommodations, specifically the use of a dedicated aide and a wheelchair, as required by the Individualized Education Program (IEP) during the 2023- 2024 school, in accordance with 34 CFR §§ 300.101 and .323.
2. The BCPS has not ensured that the IEP team addressed the parent’s concerns about the student’s safety since August 2023, in accordance with 34 CFR § 300.324.

**BACKGROUND:**

The student is 19 years old and is identified as a student with Multiple Disability (Autism, Intellectual Disability, Orthopedic Impairment) under the IDEA. He attends [REDACTED] ([REDACTED]) and has an IEP that requires the provision of special education instruction and related services.

### **FINDING OF FACTS:**

The IEP, in effect at the start of the 2023-2024 school year was developed on November 2, 2022, and amended on July 7, 2023. The IEP reflects the areas impacted by the student's disability are consumer math, math calculation, reading comprehension, reading vocabulary, speech and language pragmatics, speech-language receptive language, self-management, social interaction skills, physical - fine motor. The IEP team developed IEP goals for the impacted areas. The IEP required 29 hours and 15 minutes weekly of specialized instruction outside of the general education classroom in a self-contained classroom in a private separate day school with instruction provided by a special education teacher and instructional assistant, 30 minutes a week of speech-language services outside of the general education classroom and 15 minutes a week if occupational therapy. In addition, the IEP reflects that the student participates in alternate state assessments, follows alternate academic achievement standards, and will receive a Maryland High School Certificate of Program Completion.

The IEP requires the provision of instructional support, social/behavioral support, physical/environmental support, school personnel/parental support, and support to access a modified general education curriculum. The student requires adult support ("1:1 aide") for feeding, dressing, toileting, transitions, and all activities. The IEP reflects a 1:1 aide will be provided 30 hours per week. The student has special communication needs in the areas of expressive and receptive language and requires an assistive technology device. The student utilizes picture symbol supports to access meaning and express basic wants, needs, and ideas.

The July 7, 2023, IEP reflects the student was provided a Functional Behavior Assessment (FBA) on May 13, 2020, and a Behavior Intervention Plan (BIP) was developed on October 14, 2022.

On August 16, 2023, the complainant emailed [REDACTED] staff, administrators, and BCPS IEP members to inform them that the student came home with soiled diapers and was taken to the hospital due to "feces being found in his mouth." A school administrator responded to the complainant, informing her that she would investigate the situation the following day and get back to the complainant.

On September 6, 2023, the complainant emailed members of the [REDACTED] staff and IEP team members to express concern regarding the support the student was receiving. The complainant shared concerns regarding the "frequent changes in 1:1 support" and informed the school team that after a conversation with the current aide, she did not feel the aide "seemed adequately prepared to address [the student's] behaviors." The complainant inquired about how the staff are trained and informed the school team that the student would not return to school until after the IEP meeting scheduled for September 11, 2023.

On September 6, 2023, a [REDACTED] administrator responded to the complainant via email to inform her that "all staff is adequately trained before working with the students" and "although we strive for consistency, we cannot guarantee that students will have a permanent aide for the duration of their time in our building." The BCPS administrator informed the complainant that their data showed the student was serviced by the same aide for 21 out of the 25 days the student was present, and on the other days, assistance was provided by the teacher assistant in the classroom."

On September 11, 2023, the IEP team met to address parent concerns regarding the student's care while at school. The Prior Written Notice (PWN) generated after the meeting reflects that the complainant expressed concern regarding the provision of a 1:1 aide as prescribed in the student's IEP and whether all staff working with the student have training on the BIP. The IEP team confirmed consistent 1:1 aide support, ensured that all staff are trained on the BIP and made plans for another review session. The complainant also expressed

concern regarding the student's hygiene when he returned home, which caused health and cognitive challenges. In response, the IEP team determined the student would be taken to the bathroom hourly and before dismissal. Due to safety concerns, the complainant requested a change in the school placement for the student. While the BCPS and the IEP team believe they can appropriately program for the student, BCPS decided to seek a new school placement and submitted referrals to other schools. It was determined that [REDACTED] will continue to provide FAPE for the student until a new placement is secured.

On October 31, 2023, the IEP team met for an annual review of the student's IEP. The PWN reflects the IEP team reviewed data from informal procedures, observations, classroom-based assessments, daily data collection, baseline data, clinician observations, team discussions, progress reports, and report cards and determined the student will continue learning from an alternate framework and is earning a certificate of completion. The IEP team determined that the student has severe needs in academic, functional, and behavioral areas and continues to require heavy adult support throughout the school day in all activities for feeding, dressing, toileting, and transitions. The student also has a safety care plan that requires close adult supervision as he frequently demonstrates behavior (scratching and grabbing) that can harm himself or others.

The October 31, 2023, IEP's Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflect that the student is performing at a pre-kindergarten level in all academic areas and below age or grade level in the area of behavior and related services. The IEP indicates that the student continues to require assistive technology through the use of picture symbol supports to access meaning and express basic wants, needs, and ideas. The IEP team proposed that the student requires the behavioral and therapeutic support of a private or separate day school, and FAPE will continue to be provided at [REDACTED].

On November 3, 2023, the complainant was informed by [REDACTED] staff via email that the student had "feces in his mouth". On November 14, 2023, BCPS emailed the complainant to schedule an IEP meeting due to parent concern. The complainant responded she did not want an IEP meeting, "just an explanation."

There is documentation that the [REDACTED] school staff added "toileting data" to the student's "Therapeutic Behavioral Aide - Daily Documentation Page."

On December 4, 2023, the student received a recommendation letter from [REDACTED] stating a diagnosis of Cerebral palsy, unspecified type. The recommendation states, "It is imperative that [the student] maintains his bone health by walking but if he is agitated, a wheelchair will be beneficial for him during the school day. Please allow [the student] to use a wheelchair as needed to get to the classroom and other parts of the school."

On January 30, 2024, BCPS emailed the complainant a "Notice of IEP Team Meeting" to an IEP meeting scheduled for February 13, 2024, to discuss the need for a wheelchair while in school due to the doctor's recommendation and the complainant expressing the student is in pain when he returns home from school.

On February 27, 2024, the IEP team convened to review and revise the IEP as appropriate and to discuss the need for access to a wheelchair while at school. The PWN generated after the meeting reflects that the IEP team reviewed a doctor's note, observations, data collection, and informal measures to determine the need for access to a wheelchair as a supplementary aid daily when in distress throughout all school environments, to alleviate pain. The PWN indicates that the wheelchair will be provided by BCPS and will be kept at school. There is documentation that a wheelchair is assigned to the student while in the school building.

The February 27, 2023, amended IEP reflects “that when [the student] is in pain, he may demonstrate behaviors, but not limited to stopping walking, becoming very still, whining and crying. When demonstrated, the student will have access to his wheelchair. [The student] will independently get out of his wheelchair when he is no longer in pain or distress. The wheelchair will be provided by BCPS and will be available throughout the entirety of the school day, including within the school building, during Community-Based Instruction, and during emergency evacuations. [The student] is encouraged to walk, however, when he appears to be in pain, he has access to a wheelchair.”

On May 2, 2024, the complainant emailed members of the IEP team to inform them of the student’s hip agitation and the pain he was experiencing. She explained the length of time it took for the student to sit once he was home due to the pain and proposed that the student be placed on a hybrid schedule of three days in school and two days at home to help reduce the amount of time he spends standing during the school day. The complainant also stated she was open to suggestions from the team.

On May 3, 2024, BCPS emailed the complainant and informed her that they had some ideas, including a hybrid schedule. A [REDACTED] administrator also emailed the complainant stating that she was open to a hybrid schedule, but it had to be approved by the district.

On June 5, 2024, the IEP team convened to review and revise the IEP as appropriate and to discuss the request for Home and Hospital Programming (HHP). The IEP team reviewed the professional statement and team discussion to determine that the student required HHP. The IEP team revised the student’s IEP to be implemented while on HHP. The IEP team proposed that all academic goals and objectives would be addressed and decided not to address related services and behavior goals and objectives. The IEP team determined that the student would receive six hours a week of HHP for classroom instruction and proposed that HHP be identified as the Least Restrictive Environment (LRE) during the time the student is out on HHP. On June 13, 2024, the complainant emailed BCPS to inform them that she had learned that on June 5, 2024, the student walked out of the school building unaccompanied and nearly boarded the Metro Transit Authority Bus. She stated that she had not been informed about this incident.

On June 14, 2024, the BCPS staff member emailed the complainant to inform her that the [REDACTED] staff stated that at no time was the student out of sight of a staff member. It was noted that the student was on the sidewalk outside the door during dismissal, and there was a question about the whereabouts or position of the 1:1 aide, which would be handled internally.

On July 13, 2024, a BCPS IEP team member emailed the complainant to follow up on the messages left on the complainant’s cell phone on June 27, 2024, and June 28, 2024. The BCPS IEP team member informed the complainant that they were reaching out to schedule an IEP meeting to discuss the complainant’s concerns. The BCPS staff member requested the complainant’s availability for August 5, 2024, and also informed the complainant that they had sent referrals to three new schools.

On July 15, 2024, BCPS emailed the complainant a "Notice of IEP Team Meeting" to an IEP meeting scheduled for August 5, 2024, to discuss the complainant’s concerns and to also discuss HHP. There is documentation that the student was provided with his supplementary aids and accommodations during the 2023- 2024 school year as required by the IEP.

There is documentation that the student received support from a dedicated aide during the 2023-2024 school year as required by the IEP. When the student received a new aide during the school year, there is documentation that the aide received training from [REDACTED] administration in order to provide services to the student.

**CONCLUSIONS:**

**ALLEGATION# 1**

**PROVISION OF SUPPLEMENTARY AIDS AND ACCOMMODATIONS**

Based on Findings of Fact #1, #2, #7, #8, #11, #12, #14, #15, #20, #23, and #24, MSDE finds that the BCPS has ensured that the student has been consistently provided with his supplementary aids and accommodations, specifically the use of a dedicated aide and a wheelchair, as required by the IEP during the 2023-2024 school, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation did not occur concerning the allegation.

**ALLEGATION #2**

**ADDRESS PARENT CONCERNS**

Based on Findings of Fact #4 through #7, #10 #11, #13, #14, #16, #17, #19 through #22, MSDE finds that the BCPS has ensured that the IEP team addressed the parent’s concerns about the student’s safety since August 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning the allegation.

**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/sj

- 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, BCPS
- Alexandra Cambra, Director, Nonpublic School Approval, MSDE
- Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
- Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
- Tracy Givens, Section Chief, Dispute Resolution, MSDE
- Stephanie James, Complaint Investigator, MSDE