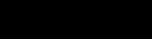


September 13, 2024

Corrected Copy September 20, 2024




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

RE: 
Reference: #25-015

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.


ALLEGATION:

On July 30, 2024, MSDE received a complaint from , 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 allegation that the BCPS did not provide the student with the Extended School Year (ESY) services required by the IEP during the summer of July 2024 ESY session, in accordance with 34 CFR §§ 300.101 and .323. Specifically, you alleged:

- The student did not receive ESY services from July 29, 2024, to August 2, 2024; and
- The student did not receive a dedicated aide from July 29, 2024, to August 2, 2024.

BACKGROUND:

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

SUMMARY OF FINDINGS AND CONCLUSION:

1. The IEP in effect in July 2024 is dated March 1, 2024. The IEP reflects the student's primary disability as OHI with communication, gross motor, fine motor, and early literacy as the areas affected by the disability.

The IEP reflects that the student was eligible for ESY services for 2024. The IEP required the following ESY services for the student from July 10, 2024, through August 4, 2024:

- Four, 30-minute sessions of classroom instruction outside general education weekly. "[The student] will receive 4- 30-minute sessions provided by the special educator to address her early literacy goal."
 - Two, 20-minute sessions of speech-language pathology services in general education, weekly. "[The student] will receive two, twenty-minute speech sessions per week in the general education classroom setting."
 - One, 20-minute session of physical therapy, weekly. "[The student] will be seen 1:1 with PT to minimize distractions and enhance [the student's] attention to mobility and therapeutic tasks. Services may be provided in person or via telehealth/virtually."
 - One, 15-minute session of occupational therapy outside general education, weekly. "OT will provide one session during ESY in order to train staff on self-feeding techniques for [the student's] mealtime strategies"; and
 - Adult support.
2. In its written response, the BCPS acknowledges that it did not provide the student with ESY services and a dedicated aid from July 29, 2024, to August 2, 2024.
 3. On August 28, 2024, the IEP team convened "to plan for the provision of a free and appropriate public education (FAPE) for the student and to discuss the outcome of a MSDE complaint." The Prior Written Notice (PWN) generated after the meeting reflects that the BCPS proposed to offer the student compensatory services for the service hours missed during ESY. The complainant requested "to begin compensatory services at the end of September to allow [the student] time to acclimate to the school year."
 4. On August 29, 2024, the BCPS offered the following compensatory services to the student:
 - Seven hours and 45 minutes of special education instruction;
 - One hour of speech and language therapy;
 - 20 minutes of occupational therapy; and
 - 20 minutes of physical therapy.
 - "Services will be provided before school hours at Lutherville Laboratory at a time and date determined with the parents. Services will begin after [the student] has had the opportunity to acclimate to the current school year."
 5. MSDE concurs and appreciates the BCPS' acknowledgment that violations occurred concerning the allegation.

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.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 Branch, 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

By December 1, 2024, MSDE requires the **BCPS** to provide documentation of the completion of the proposed compensatory services plan, or documentation of dates and times of a plan agreed to by both parties.

School-Based

MSDE requires the BCPS to provide documentation by November 1, 2024, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the provision of ESY services under the IDEA.

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.

¹ 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.

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.

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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: Dr. Myriam Rogers, Superintendent, BCPS
Charlene Harris, Supervisor of Compliance, Special Education, BCPS
Jason Miller, Coordinator, Special Education Compliance, BCPS
Norma Villanueva, Compliance Liaison, 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
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE