

October 10, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Denise Mabry
Director of Special Education Compliance & Due Process
Baltimore City Public Schools
200 E. North Avenue
Baltimore, Maryland 21202

Re: [REDACTED]
Reference: #25-033

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 August 16, 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 City Public School (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) and related requirements concerning the above-referenced student.

MSDE investigated the allegations:

1. The BCPS did not ensure that the student was provided with the special education classroom instruction as required by the Individualized Education Program (IEP) from August 2023 through November 2023, in accordance with 34 CFR §§ 300.101 and .323.
2. The BCPS has not ensured that the student has consistently been provided with the supplementary aids, services, program modifications and supports required by the IEP since November 2023, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

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

SUMMARY OF FINDINGS AND CONCLUSION:

During the investigation BCPS acknowledged the following:

1. The BCPS did not ensure that the student was provided with the special education classroom instruction as required by the IEP from August 2023 through November 2023, in accordance with 34 CFR §§ 300.101 and .323.
2. The BCPS has not ensured that the student has consistently been provided with the supplementary aids, services, program modifications and supports required by the IIEP since November 2023, in accordance with 34 CFR §§ 300.101 and .323.

MSDE concurs and appreciates the BCPS' acknowledgement that violations occurred with respect to the allegations.

CORRECTIVE ACTION 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 non-compliance 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.

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.

Student-Based

MSDE requires the BCPS to provide the following documentation: by January 2, 2025, the IEP team has convened and conducted an IEP team meeting to determine appropriate compensatory services to remedy the IDEA violations. The compensatory services are to remedy the loss of classroom instruction services, supplementary aids, services, program modifications and supports that was required by the student's IEP. The compensatory services must be provided within one year of this Letter of Findings.

The complainant will be provided with prior written notice of the outcome of the IEP meeting and has the right to request mediation and/or a due process hearing if there is disagreement with the decisions made at the meeting.

Similarly Situated Students

MSDE requires the BCPS to provide documentation by January 2, 2025, that the IEP team has identified all of the students with IEPs that were in the [Student's] class during the 2023-2024 school year and held IEP meetings for them to determine appropriate compensatory services from not ensuring that the classroom instruction services, supplementary aids, services, program modifications and supports required by the IEP were delivered in the manner required by the students' IEPs. The IEP team will develop a plan for the provision of those services within one year of the Letter of Findings.

The parents of the students will be provided with prior written notice of the outcome of the IEP team meetings and have the right to request mediation and/or a due process hearing if there is disagreement with the decisions made at the meeting.

School-Based

MSDE requires the BCPS to provide documentation by January 2, 2025, that it has provided professional development to [redacted] staff on the requirements for the provision of supplementary aids, services, program modifications and support required by the IEP.

MSDE requires the BCPS to provide documentation by January 2, 2025, of the completion of the proposed corrective actions.

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 (15) 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: Sonja Santelises, Superintendent, BCPS
Christa McGonigal, Educational Specialist, 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, Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE