

November 14, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #25-063

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 results of the investigation.

ALLEGATION:

On September 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 County Public Schools (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 and adult support required by the IEP during the summer of July 2024 ESY session, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is 11 years old and is identified as a student with Autism under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. The IEP in effect during the ESY session in July 2024 is dated June 5, 2024. The IEP requires daily adult support as needed, from March 5, 2024, to March 5, 2025. The IEP reflects that the student was found eligible for ESY services from July 8, 2024, to August 2, 2024. The following services were required during ESY:
 - Five 30-minute sessions of special education in “Phonics-Multisyllabic Words Goal 10 minutes daily” and “Phonics Syllabication Goal – 20 minutes daily;” and
 - Five 20-minute sessions of special education in “Multiplication and Division Goal 5 20-minute sessions weekly.”

2. On July 9, 2024, BCPS staff emailed the complainant stating that a copy of the student’s IEP had been printed out for “his classroom teacher and the [social emotional learning] SEL teacher.”
3. On July 10, 2024, the complainant emailed BCPS staff, stating that in the first two days of ESY (July 8, 2024, and July 9, 2024) the student regressed in his behaviors. On July 9, 2024, the complainant observed the student’s regression when she came to the school because the student’s teacher called to tell her that the student was “refusing to do his work and hiding in the back of the classroom.” In addition to the student’s isolating and non-responsive behaviors, the complainant shared that the work that the student was being asked to complete was beyond his reading level, and the appropriate modifications and supports were not being provided because the teacher was unaware of the student’s IEP and had not received a copy. The complainant said the student was not receiving additional adult support, and without it, he could not stay on task, keep up with lessons, take sensory breaks outside the classroom, or complete the grade level reading assignments. The complainant referred to the requirement of adult support in the student’s IEP and the supports that the adult support should provide.
4. On July 12, 2024, BCPS staff emailed the complainant stating that the teacher had been given a copy of the student’s IEP, and the “social emotional learning teacher for the summer school will be providing [the student] with daily scheduled breaks” in addition to a pass to the front office that he will receive to give “to give to the teacher when he is feeling overwhelmed.” The email stated that the complainant’s concerns would be shared with the Department of Special Education.
5. █████ Summer Programs attendance records reflect that the student did not attend ESY after July 9, 2024.
6. There is no documentation that the student received the IEP services required by the IEP during the days of ESY that were attended, including adult support.

DISCUSSION AND CONCLUSION:

PROVISION OF ADULT SUPPORT

In this case, the student’s IEP required adult support from March 5, 2024, to March 5, 2025. There is documentation that the student attended ESY on July 8, 2024, and July 9, 2024. There is no documentation that the student received adult support on either of those dates, nor is there documentation that the student received the IEP services required by the IEP on either of those dates.

Based on the Findings of Fact #1 and #6, MSDE finds that the BCPS did not provide the student with the ESY services and adult support required by the IEP on July 8, 2024, and July 9, 2024, in accordance with 34 CFR § 300. 323. Therefore, this office finds that a violation 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 February 6, 2025, MSDE requires the BCPS to provide documentation that the IEP team has convened to determine whether there was negative impact to the student's progress from the lapse in the implementation of the services during the two days that the student attended ESY during July 2024, and if so, determine appropriate compensatory services to remedy the impact. The IEP team must develop a plan to provide the services within a year of the IEP team meeting.

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.

School-Based

MSDE requires the BCPS to provide documentation by February 6, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the implementation of IEP services and supports during ESY. These steps must include staff development, as well as tools developed to monitor compliance.

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 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.

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
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS
[REDACTED], Principal, [REDACTED], BCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Elizabeth B. Hendricks, Complaint Investigator, MSDE