

November 14, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Ms. Allison Myers
Executive Director
Special Education Services
Baltimore County Public Schools
105 W Chesapeake Ave,
Towson, Maryland 21204

Re: [REDACTED]
Reference: #25-072

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.

ALLEGATION:

On September 24, 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 allegation that the BCPS has not ensured that the student is being consistently provided with the special education instruction and supplementary aids and services, and has not implemented the student’s Behavioral Intervention Plan (BIP), as required by the Individualized Education Program (IEP) since the beginning of the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is 12 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. The student attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

SUMMARY OF FINDING AND CONCLUSION:

Provision of Special Education Instruction and Supplementary Aids and Services

In its written response, the BCPS acknowledged that they did not ensure that the student is being consistently provided with the special education instruction and supplementary aids and services, as required by the IEP since the beginning of the 2024-2025 school year.

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

Implementation of the BIP

FINDINGS OF FACT:

1. The IEP in effect at the beginning of the school year requires a BIP.
2. The BIP in effect at the beginning of the 2024-2025 school year, reflects it was revised on January 24, 2024. The BIP identifies two problem behaviors:
 - a. Non-Compliance: When given a direction, [Student] will say "no" and turn his body away or ignore teacher demands; and
 - b. Off -Task Behavior: When other students are on task, [Student] will socialize with peers, get out of his seat, and fidget with items around him.
3. While there is documentation of implementation of the BIP, it does not demonstrate consistent implementation as required by the IEP.

CONCLUSION:

Based on the Findings of Fact #1 through #3, MSDE finds that the BCPS has not ensured that the BIP, has been consistently implemented, as required by the IEP since the beginning of the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred concerning this allegation.

CORRECTIVE ACTIONS AND TIMELINE:

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 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, 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

MSDE requires the BCPS to provide documentation by January 15, 2025, that the BCPS has:

- a. Provided the student with special education instruction as required by the IEP;
- b. Implemented the BIP as required by the IEP; and
- c. Convened an IEP team meeting to determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

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 January 15, 2025, outlining the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the provision of special education instruction, supplementary aids and services, and the implementation of the BIP under IDEA. These steps must include staff development, as well as tools developed to monitor compliance. Monitoring demonstrating full compliance of the implementation of specialized instruction, supplementary aids and services, and BIPs for 5 students monitored bimonthly must be provided to MSDE by January 31, 2025.

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 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.

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 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
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE