

December 10, 2024

[REDACTED]

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

Re: [REDACTED]  
Reference: #25-097

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 October 11, 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 following allegations:

1. The BCPS did not follow proper procedures when disciplinarily removing the student from school since October 2024, in accordance with 34 CFR § 300.530, COMAR 13A.08.02, and COMAR 13A.08.03.
2. The BCPS has not ensured that the student is being provided with the supplementary aids and services 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.
3. The BCPS did not ensure that the Behavior Intervention Plan (BIP) was consistently implemented since the beginning of the 2024–2025 school year, in accordance with 34 CFR §§ 300.101 and .323.

**BACKGROUND:**

The student is 17 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.

## **ALLEGATION #1**

## **DISCIPLINARY REMOVAL**

### **FINDINGS OF FACT:**

1. On October 7, 2024, the student was suspended for five days as a result of the following actions: physical attack on staff member; striking a staff member who is intervening in a fight or other disruptive activity (intentional or unintentional); use and/or possession of tobacco products, tobacco-related devices, imitation tobacco products, cigarette rolling paper or electronic cigarettes - repeated offense; threat(s) on individual(s); and refusing to cooperate with school rules and/or regulations.
2. On October 9, 2024, the IEP team convened to determine whether the behavior that resulted in disciplinary removal on October 7, 2024, was a manifestation of the student's disability. The prior written notice (PWN) developed after the IEP team meeting reflects that the IEP team reviewed statements from the student and staff. The PWN reflects the team reviewed the following actions taken by the student: physical attack on a staff member; refusing to cooperate with school rules and/or regulations; threat on individual; use and/or possession of tobacco-related devices, imitation tobacco products, cigarette rolling paper, or electronic cigarettes - repeated offense; and striking a staff member who is intervening in a fight or other disruptive activity (intentional or unintentional). The proposed suspension was from October 8 to 21, 2024.

The PWN reflects the IEP team:

- reviewed the student's behavior goals, psychological assessment report dated January 23, 2018, and the private psychological report dated July 12, 2023;
  - the student was suspended for three days in September 2024;
  - proposed to determine if a functional behavior assessment (FBA) was warranted when the team reconvened on October 14, 2024, for a re-evaluation and annual review meeting; and
  - determined the behaviors that occurred on October 7, 2024, were a manifestation of the student's disability and the student should return to back to school on October 10, 2024.
3. On October 14, 2024, the IEP team convened to hold the annual review meeting to review the student's post-secondary transition plan, and to review existing data to determine if additional data is required to determine eligibility. The PWN reflects the IEP team:
    - considered the need to order additional assessments, and rejected this proposal;
    - determined the student continued to meet eligibility requirements;
    - considered the need for an FBA and determined that an FBA was not needed;
    - proposed and agreed to add crisis intervention and direct social work services to the IEP;
    - reviewed and revised the IEP.

### **DISCUSSION AND CONCLUSION:**

School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct. (34 CFR § 300.530)

On October 7, 2024, the BCPS proposed that the student be suspended for nine days. The student was removed from previously during school year 2024-2025 for three days. The October 7, 2024, proposed removal triggered procedural safeguards under IDEA. The IEP team convened a manifestation determination meeting, and the student returned to school when the IEP team found the student's behaviors were a manifestation of his disability.

Based on Findings of Fact #1 through #4, MSDE finds BCPS did follow proper procedures when disciplinarily removing the student from school since October 2024, in accordance with 34 CFR § 300.530, COMAR 13A.08.02, and COMAR 13A.08.03. Therefore, MSDE finds that a violation did not occur.

## **ALLEGATION #2 and #3**

## **PROVISION OF SUPPLEMENTARY AIDS AND IMPLEMENTATION OF BIP**

### **FINDINGS OF FACT:**

4. The IEP, in effect in August 2023, was developed on May 25, 2023. The IEP reflects that the following areas are impacted by the student's disability: math calculation, math problem solving, reading comprehension, reading vocabulary, and social/emotional/behavioral. The IEP requires 27 hours and 30 minutes per week of specialized classroom instruction outside of the general education setting. The IEP requires supplementary aids and services including daily adult support.

5. The IEP requires the following supplementary aids, services, program modifications and supports:
- daily - allow use of organizational aids, frequent and or immediate feedback, check for understanding, have student repeat and/or paraphrase information, frequent eye contact/proximity control, preferential seating;
  - monthly - home school communication system; and
  - quarterly as needed- social work consult.

The IEP does not require a Behavior Intervention Plan (BIP).

6. The IEP developed on October 14, 2024, reflects that the following areas are impacted by the student's disability: math calculation, math problem solving, reading comprehension, reading vocabulary, social/emotional/behavioral, employment, and education/training. The IEP requires 15 hours per week of specialized classroom instruction outside of the general education setting. The IEP requires thirty minutes per month of social work services outside of the general education setting.

7. The IEP requires the following supplementary aids, services, program modifications and supports:
- daily - allow use of organizational aids, frequent and or immediate feedback, check for understanding, have student repeat and/or paraphrase information, frequent eye contact/proximity control, preferential seating;
  - monthly - home school communication system; and
  - daily as needed – crisis intervention.

The IEP does not require a BIP.

8. There is documentation of the provision of instruction and supplementary aids, services, programs modifications and support, as required by the IEP since the beginning of the 2024-2025 school year.

**CONCLUSION:**

**Supplementary Aids and Services**

Based on Findings of Fact #5 through #9, MSDE finds that the BCPS has ensured that the student has been consistently provided, supplementary aids and services, as required by the IEP since the beginning of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation did not occur concerning this aspect of the violation allegation.

**Implementation of BIP**

Based on the Findings of Fact #5 and #7, MSDE finds that the student's IEP did not require a BIP. Therefore, the BCPS was not required to implement a BIP 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 did not occur concerning this allegation.

**CORRECTIVE ACTIONS AND TIMELINES:**

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.

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: Dr. Myriam Rogers, Superintendent, BCPS  
Charlene Harris, Supervisor of Compliance, Department of Special Education, BCPS  
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS  
[REDACTED], Principal, [REDACTED], BCPS  
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE  
Dr. Paige Bradford, Chief, Specialized Instruction, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Rabiatu Akinlolu, Compliant Investigator, MSDE