

December 20, 2024

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

Re: [REDACTED]  
Reference: #25-110

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 23, 2024, MSDE received a complaint from Ms. Nicole Joseph, 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 ensure that the Individualized Education Program (IEP) was consistently implemented since the beginning of the 2024-2025 school year, in accordance with 34 CFR §§ 300.101 and .323. Specifically, you allege the following:
  - a. The student was not provided with adult support, morning check-ins, scheduled breaks, social skills training, alternative location for lunch; and
  - b. The parent was not provided with daily home school communication and notice of changes to the student’s schedule.
2. The BCPS did not follow proper procedures when disciplinarily removing the student from school since the beginning of the 2024-2025 school year, in accordance with 34 CFR § 300.530, COMAR 13A.08.02, and COMAR 13A.08.03.
3. The BCPS has not implemented the student’s Behavioral Intervention Plan (BIP), as required by the IEP since beginning of the 2024–2025 school year, in accordance with 34 CFR §§ 300.101 and .323.

## **BACKGROUND:**

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

## **ALLEGATION #1**

**PROVISION OF ADULT SUPPORT, MORNING CHECK –INS, SCHEDULED BREAKS, SOCIAL SKILLS TRAINING, ALTERNATIVE LOCATION OF LUNCH, DAILY HOME SCHOOL COMMUNICATION, and NOTICE OF CHANGES TO THE STUDENT’S SCHEDULE.**

## **FINDINGS OF FACT:**

1. The IEP in effect at the beginning of the school year, was developed on March 14, 2024. The IEP reflects the following areas are impacted by the disability: social/emotional/behavioral and self-Management [e.g., executive functioning, organization, attention, etc.] The IEP requires the following supplementary aids and services:
  - Daily – home-school communication and adult support.
  - Periodically – advance preparation of schedule changes. The narrative reflects “when possible, adults should prepare the [student] for schedule changes such as fire alarms, changes in staff, assemblies, or other changes to the day. The [student] also requires advanced (at least 24 hours) preparation of testing situations.”
  - Periodically- social skills training. The narrative reflects “data demonstrates that the [student] requires social skills training. Depending on need, this may be done in a small group setting, during a lunch bunch, or one on one with the [student]. This could also take place during the morning class meetings.”

The IEP requires one hour and forty-five minutes per week of special education instruction outside the general education setting to be provided by the special education teacher, and/or instructional assistant. The narrative reflects “upon arrival to school, the [student] will be greeted by a trusted adult who will complete a morning check-in, in a separate, yet familiar location (i.e., SEL room) prior to school starting. At the arrival bell, [student] will transition to his homeroom classroom.”

The IEP requires five hours per week of special education instruction outside the general education setting to be provided by the special education teacher, and/or instructional assistant. The narrative reflects that the “[student] will receive scheduled breaks for 5 minutes either inside or outside the classroom following 30 consecutive minutes of successful (staying in the classroom participating) classroom time.”

The IEP requires two hours and thirty minutes per week of special education instruction outside the general education setting to be provided by the special education teacher, and/or instructional assistant. The IEP reflects that the “[student] participates in lunch bunch with a small group of students within the cafeteria. Currently, the [student] eats lunch in the cafeteria at a separate table with a small group of students, but he has the option to select an alternative location for lunch with a small group of students in a quiet location.”

The IEP requires a Behavior Intervention Plan (BIP) developed on January 20, 2023.

2. There is documentation that the student was provided with adult support, morning check ins and social skills training as required by the IEP since the beginning of the 2024-2025 school year.
3. There is no documentation that the school-based staff communicated with the parent from the beginning of the 2024-2025 school year through October 23, 2024, as required by the IEP.

There is documentation that the parent received daily home to school communication, as required by the IEP since October 23, 2024.

4. On October 23, 2024, the school-based team emailed the parent the link to an electronic folder containing the student's daily point sheets. These sheets capture whether the student met their daily behavioral goals, which include:
  - Following staff directions and school rules;
  - Completing all assignments and activities;
  - Remaining on task and engaging in appropriate social interactions with peers; and
  - Avoiding negative distractions.

Additionally, the point sheets track behaviors during the student's lunch, specifically:

- Staying in their seat;
  - Using appropriate language;
  - Keeping hands to themselves; and
  - Following staff directions.
5. There is no documentation that the student was provided with lunch in an alternative location, and scheduled breaks as required by the IEP since the beginning of the 2024-2025 school year.
  6. On September 13, 2024, the parent emailed the school-based team asking why the student's schedule was changed. On September 16, 2024, the school-based team responded that the student was moved into a more advanced Math and ELA classes due to his high performance. There is documentation that the student was informed of the class change on September 11, 2024, and was provided with a copy of the new schedule.

On September 26, 2024, the parent emailed the school-based team to confirm that the student's schedule would revert to the original one. The parent disagreed with the schedule change. Later that day, the school-based team confirmed that the student's schedule had been reverted and that they would inform the student the following morning.

On October 31, 2024, the school-based team informed the parent that moving the student to another math class would be beneficial. The parent agreed to this change on the same day.

## **DISCUSSIONS AND CONCLUSIONS:**

### **Adult Support**

Based on the Findings of Fact #1 and #3, MSDE finds that the BCPS has ensured the student was provided with adult support 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 aspect of the allegation.

### **Morning Check-Ins**

Based on the Findings of Fact #1 and #3, MSDE finds that the BCPS has ensured the student was provided with morning check-ins, 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 aspect of the allegation.

### **Scheduled Breaks, Social Skills Training, Alternative Location for Lunch**

Based on the Findings of Fact #1, #4, and #5, MSDE finds that the BCPS has not ensured the student was provided with scheduled breaks, social skills training, alternative location for lunch 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 occurred concerning this aspect of the allegation.

### **Home School Communication**

Based on the Findings of Fact #1, and #3, MSDE finds that the BCPS has not ensured the student was consistently provided with home to school communication as required by the IEP, from the beginning of the 2024-2025 school year to October 23, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning this aspect of the violation.

Notwithstanding the violation, based on the Finding of Fact #3, MSDE finds that that the school-based staff communicated with the parent multiple times since the beginning of the 2024-2025 school year. Therefore, no additional corrective action is required.

Based on the Findings of Fact #1, and #3 MSDE finds that the BCPS has ensured the parent was provided with home to school communication as required by the IEP, since October 23, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

### **Notice of Changes to the Student's Schedule**

In this case, the parent alleges that the student's instructional schedule changed, and she was not notified as required by the IEP. However, the IEP does not require the parent to be provided with a notice of changes to the student's instructional schedule. The IEP requires specific incidents when school staff are required to prepare the student for changes.

Based on the Findings of Fact #1, and #6, MSDE finds that the BCPS has ensured the student was provided with notice of changes to the student's schedule 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 not occurred concerning this aspect of the allegation.

## **ALLEGATION #2**

## **DISCIPLINARY REMOVALS**

### **FINDINGS OF FACT:**

7. On October 15, 2024, the BCPS school-based staff emailed the parent proposing that the student spend the day in detention, as a result of behaviors demonstrated by the student. The email reflects the student detention center is a classroom in the building and that the student would be supported.

The parent emailed the school-based staff and expressed that she objected to the proposal.

8. There is no documentation that the student was disciplinarily removed since the beginning of the 2024 –2025 school year.

#### **DISCUSSION AND CONCLUSION:**

In this case, the complainant raises concern that the student was disciplinarily removed for one period from the general education setting classroom on October 15, 2024. The student was placed in a smaller classroom setting to process events of the day. The student was provided with his classroom assignments during this time period. This removal is an in-school intervention and is not a disciplinary removal.

Based on the Finding of Fact #7 and #8, MSDE finds that the student has not been disciplinarily removed since the beginning of the 2024-2025 school year. As a result, disciplinary protection under the IDEA, were not triggered, in accordance with 34 CFR § 300.530, COMAR 13A.08.02, and COMAR 13A.08.03. Therefore, this office finds that a violation has not occurred concerning this allegation.

#### **ALLEGATION #3**

#### **IMPLEMENTATION OF BIP**

#### **FINDINGS OF FACT:**

9. The BIP in effect at the beginning of the 2024-2025 school year, reflects it was revised on January 20, 2023. The BIP identifies two problem behaviors:
  - Disruptive Behavior – climbing on/under furniture, throwing (not at others) or destroying items/materials, screaming/crying, verbal insults, arguing or saying “no”, mimicking/mockers others, demanding items/possessions of others.
  - Unsafe Behavior - shoving, pushing, nudging, bumping into others, throwing items/material (at others), hitting/kicking/biting others.

The BIP data collection method includes: informal assessments, ABC charts, point sheets/behavior charts, office/crisis referrals, and observation.

10. While there is documentation of implementation of the BIP from the beginning of the 2024-2025 school year, it does not demonstrate consistent implementation, as required by the IEP.

#### **CONCLUSION:**

Based on the Findings of Fact #1, #4, #9, and #10, 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 TIMELINES:**

The IDEA requires that State complaint procedures include those for 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.<sup>1</sup> 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.<sup>2</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### **Student-Specific**

MSDE requires the BCPS to provide documentation by March 14, 2025, that the IEP team has:

- a. Provided scheduled breaks, and alternative location for lunch; and
- b. Implemented the BIP as required by the IEP; and
- c. MSDE requires the BCPS to provide documentation by March 15, 2025, that it has convened an IEP team meeting to determine whether the violations related to the provision of breaks, and alternative location for lunch, services had a negative impact on the student's ability to benefit from the education program. If the IEP team determines there was a negative impact; it must also 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 parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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.

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<sup>1</sup> 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, the 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.

<sup>2</sup> 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. Brian Morrison, Branch Chief, Policy and Accountability, 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, Complaint Investigator, MSDE