

December 23, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Dr. Allison Myers, Executive Director
Baltimore County Public Schools
Department of Special Education
Jefferson Building, 4th Floor
105 West Chesapeake Avenue
Towson, Maryland 21204

RE: [REDACTED]
Reference: #25-113

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and Special Education Services (MSDE), has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report of the final results of the investigation.

ALLEGATIONS:

On November 14, 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 following allegations:

1. The BCPS did not ensure that the Individualized Education Program (IEP) team convened to review the student’s IEP/Service Plan before May 2024, to ensure that the plan was reviewed at least annually, in accordance with 34 CFR § 300.138 and .324.
2. The BCPS did not provide the parent with a timely written invitation to the IEP team meeting, convened in June 2024, in accordance with 34 CFR § 300.138 and COMAR 13A.05.01.07.
3. The BCPS did not ensure that an IEP team meeting convened in June 2024, included the required participants, in accordance with 34 CFR § 300.138.
4. The BCPS did not provide the student speech-language services required by the Service Plan, since the start of the 2024-2025 school year, in accordance with 34 CFR § 300.138.¹

¹ The student is parentally placed in a private school and as such is not entitled to the provision of a free appropriate public education. Further,

BACKGROUND:

The student is five years old and is identified as a student with Speech-Language Impairment under the IDEA. The student is parentally placed at [REDACTED] and requires the provision of services through an Individual Service Plan.²

FINDINGS OF FACT:

1. The student's May 9, 2023, Individualized Education Program (IEP) reflects an annual review date of May 9, 2024.
2. On June 3, 2024, the BCPS emailed the complainant. The email reflects that the "[REDACTED] team would like to meet with you to develop [the student's] Individual Service Plan (ISP) for next year." The proposed meeting date reflects Tuesday, June 11, 2024. The email also includes a virtual link to join the meeting. There is documentation that a parent Notification of the IEP Team Meeting was generated on June 3, 2024.
3. On June 11, 2024, the IEP team convened virtually to review the student's ISP. However, at the time of the meeting, the student did not have an ISP, but an IEP dated May 9, 2023. The prior written notice (PWN) generated after the meeting reflects the IEP team reviewed the student's most recent eligibility, input from the speech-language pathologist, the parent, and other BCPS team members. The IEP team also reviewed the student's present level of performance and goals for articulation. The BCPS team shared the guidelines from BCPS regarding service delivery for students parentally placed in private schools. The team proposed and agreed to thirty minutes of speech/language services per week, delivered in two-fifteen-minute sessions for more consistency with practice.

The PWN further reflects that the following team members participated:

- Administrator;
- General Educator;
- Parent; and
- Special Educator.

The special educator also served as the speech pathologist.

There is no documentation that a representative of the private school attended the meeting.

4. The ISP developed on June 11, 2024, requires speech-language services for two fifteen-minute sessions weekly. The sessions should address articulation/phonological skill development. The service time will not include before or after service transition time. The services may be provided in person or virtually.

there is no individual right of action to receive any services. However, the Office of Special Education has advised that if a parentally placed student has not received some or any of the services identified on their Service Plan, they may file a State complaint. If there are any IDEA funds remaining from the proportionate share allocation at the end of the fiscal year, they may be used to provide compensatory services to address lapses in services, as appropriate. Accordingly, MSDE will investigate this allegation to determine whether the student may be entitled to compensatory services if there are funds available at the end of the fiscal year. See [Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools](#), United States Department of Education, February 2022.

² The student's home and service school is [REDACTED], a Baltimore County Public School.

5. On October 28, 2024, the complainant emailed the BCPS IEP chair. The email reflects that the student had not received any speech-language services. The complainant was following up on an email received from the BCPS on October 10, 2024, reflecting the status of the student's services and a plan for missed services.

The BCPS IEP chair responded and directed the complainant to contact the IEP chair at [REDACTED] to address her concerns.

6. The speech-language service records indicate the student received speech-language services on November 7, 12, 14 (two sessions), 19, and 21, 2024, for thirty minutes per session. There is no documentation that the student received speech-language services as required by the ISP since the start of the 2024-2025 school year.

DISCUSSION and CONCLUSIONS:

Allegation #1:

ANNUAL REVIEW OF THE IEP

Based upon Findings of Fact #1, through #4, MSDE finds that the BCPS was not required to ensure that the plan was reviewed at least annually, in accordance with 34 CFR § 300.324, because the student was parentally placed in a private school and was receiving services through an ISP. Therefore, this office finds that a violation did not occur concerning the allegation.

Allegation #2

NOTICE OF THE IEP TEAM MEETING

Based on Findings of Fact #2 and #3, MSDE finds that the BCPS did not provide the parent with a timely written invitation to the IEP team meeting, convened on June 11, 2024, in accordance with 34 CFR § 300.138 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

Notwithstanding the violation, based on Finding of Fact #3, MSDE finds that the parent participated in the IEP team meeting virtually convened on June 11, 2024. Therefore, no further student-specific corrective action is required.

Allegation #3

IEP TEAM PARTICIPANTS

The IEP team must include the student's parent, at least one regular education teacher of the student if the student is, or may be, participating in the regular education environment, at least one special education teacher of the student, a representative of the public agency who is qualified to provide or supervise the provision of specially designed instruction, is knowledgeable about the general education curriculum, and about the availability of resources of the public agency, an individual who can interpret the instructional implication of evaluation results, at the discretion of the parent or public agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate, and the student when appropriate (34 CFR § 300.321). Additionally, pursuant to 34 CFR § 300.137(c)(2), the public agency must ensure that a representative of the private school attends each meeting.

In this case, the June 11, 2024, IEP team consisted of the parent, a general educator, an administrator, and the speech-language pathologist, who also served as the special educator. There is no documentation that a representative of the private school attended the meeting.

Based on the Finding of Fact #3, MSDE finds that the BCPS did not ensure that an IEP team meeting convened on June 11, 2024, included a representative of the private school a required participant, in accordance with 34 CFR § 300.137 Therefore, this office finds that a violation occurred concerning the allegation.

Allegation #4

PROVISION OF SPEECH-LANGUAGE SERVICES

Based on the Findings of Fact #3 through #6, MSDE finds that the BCPS did not provide the student speech-language services required by the ISP, since the start of the 2024-2025 school year, in accordance with 34 CFR § 300.138. 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.

MSDE has established reasonable time frames below to ensure that non-compliance is corrected in a timely manner.³ 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 Greene, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.⁴ Ms. Greene can be reached at (410) 767-7770 or by email at Nicole.Greene@maryland.gov.

Student-Specific:

As a parentally placed private school student, the student has no individual right to the services on their plan. Consequently, there are limited remedies available to address their concerns. In this case, this investigation reflected that the student has not received services pursuant to the services plan and compensatory services would be an appropriate remedy. However, these services are only available for parentally placed students if sufficient funds are available from the proportionate share set-aside in the BCPS to provide equitable services under 34 C.F.R. §§ 300.129 through 300.144. If the proportionate share has been expended prior to the awarding of compensatory services, MSDE cannot require the BCPS to spend additional IDEA funds to pay for compensatory services for a parentally-placed private school child with a disability. Accordingly, MSDE requires that by July 1, 2025, the BCPS determine whether they have expended their 2024-2025 proportionate share set aside. If they have not, the [REDACTED] IEP team must convene to determine appropriate compensatory services for the violation identified above.

³ 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.

⁴ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

School-Based:

MSDE requires the BCPS to provide documentation by February 28, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for provision of the notice of IEP team meetings and convening annual review meetings under the IDEA. These steps must include monitoring a review of at least 10 randomly selected student records to review for the provision of Notice of IEP Team Meetings and convening timely annual review meetings. The monitoring report must be submitted to MSDE on or before February 28, 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. A request for reconsideration must be sent to Tracy Givens, Section Chief, Dispute Resolution at Tracy.Givens@maryland.gov. 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/tg

c: Dr. Myriam Rogers, Superintendent, BCPS
Dr. Jason Miller, Coordinator, Special Education, BCPS
Charlene Harris, Supervisor, Special Education Compliance, BCPS
[REDACTED], Principal [REDACTED], BCPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Dr. Paige Bradford, Section Chief, Program Support and Technical Assistance, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE