

December 31, 2024

Ms. Holly L. Parker, Esq.  
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Dr. Allison Myers, Executive Director  
Department of Special Education  
Baltimore County Public Schools  
Jefferson Building, 4<sup>th</sup> Floor  
105 W Chesapeake Avenue  
Towson, Maryland 21204

Re: [REDACTED]  
Reference: #25-121

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 November 4, 2024, MSDE received a complaint from Ms. Holly L. Parker, 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 has not followed proper procedures when identifying and evaluating the student to determine if he is a student with a disability requiring special education and related services, since November 2023, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06.

**BACKGROUND:**

The student is five years old and may require an IEP and the provision of special education instruction and related services.

**FINDINGS OF FACT:**

1. On November 1, 2023, a notice of consent for assessment was signed by the student’s mother. The assessment was based on a referral by the parent that was received by BCPS on October 31, 2023, to consider the student’s speech-language expressive and receptive language, academic performance in reading mathematics, and written language, and expressive and receptive language.

2. On December 18, 2023, the IEP team convened to review the assessment results and determine special education eligibility for the student. The prior written notice (PWN) generated after the meeting reflects the IEP team reviewed the language and educational assessments completed for the student and determined that he was not eligible for special education services due to his “average to above average skills.” “Despite an identified bi-lateral mild-moderate [REDACTED], currently, [the student] presents with language skills above age level expectations.” The student’s parents expressed concern that the student’s may have “[REDACTED]” over time that would “continue to impact him and his education for the rest of his life and want to be as proactive as possible to address the impact it will have.” The parents also expressed that additional outside education and language testing would be conducted which they desired the IEP team to consider. The PWN reflects that the IEP team shared that the outside assessments could be reviewed by the IEP team, “but that information would not necessarily change [the student’s] eligibility status.” The team also shared that when the student enrolled in kindergarten the Student Support Team (SST) could schedule a meeting and develop a 504 Plan<sup>1</sup> for the student to address “any accommodations in the classroom that he may need due to his [REDACTED].”
3. The eligibility determination form, incorrectly dated December 19, 2024, reflects that after a review of the assessments and team discussion, the school-based team determined the student was ineligible for special education services based on the Clinical Evaluation of Language Fundamentals (CELF-Preschool assessment) and the Young Children’s Achievement Test (YCAT).
4. In January 2024, the parents had an outside speech-language evaluation conducted for the student and provided the BCPS with the report on May 6, 2024.
5. On May 30, 2024, the complainant emailed “correspondence regarding [the student]” to BCPS legal staff.
6. On May 30, 2024, BCPS legal staff emailed BCPS school-based staff sharing that the complainant sent an email asserting that she provided an assessment and requested an expedited IEP meeting for the student, but the legal staff member did not have documentation of this request and was inquiring if other BCPS staff was aware of the complainant’s concerns.
7. On May 30, 2024, BCPS staff emailed BCPS legal staff sharing that the school had not received any recent information from the complainant, but the team had previously gone through an evaluation process with the student and determined him ineligible for special education services but “due to his [REDACTED] and accommodations needed for that” the student would qualify for a 504 plan.
8. On May 30, 2024, BCPS staff emailed BCPS staff sharing that the SST chair had not held a meeting for the student because the student’s parents had not yet registered him for kindergarten, but once he was registered an SST meeting would be scheduled to develop a 504 plan.

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<sup>1</sup> “Section 504” refers to Section 504 of the Rehabilitation Act of 1973, which requires schools to provide a free appropriate public education (FAPE) to each eligible student, including the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of a student without a disability are met. (34 CFR § 104.33).

9. On May 30, 2024, BCPS staff emailed BCPS legal staff sharing that “no registration documents” had been submitted for the student and the student’s mother “dropped off a form saying the parents want to postpone [the student] starting [kindergarten] until the following fall.”
10. On June 12, 2024, the IEP team reconvened to discuss the results of the outside assessment conducted for the student and to determine the student’s eligibility for special education services. The IEP team reviewed the previous assessment data from the December 2023 IEP meeting where the student was found ineligible for IEP services, and reconsidered the student’s current [REDACTED] eligibility. The PWN reflects that although the student has a diagnosed [REDACTED] he does not meet “the additional criteria under a [REDACTED] to qualify for special education services” because after reviewing the completed outside assessment “the [REDACTED] does not adversely impact [the student’s] ability to function in the educational program.” The team reiterated that the student could receive accommodations through a 504-plan due to his diagnosed [REDACTED]. The complainant shared that the student’s assessment results “are not the only criteria that the team should be considering for eligibility and [the team] should consider [the student’s] [REDACTED] and how that may impact his performance in the classroom.” The complainant requested that an IEP be developed to provide the student with “iterant services from a teacher of the [REDACTED], use of an [REDACTED] in school and for him to receive speech and language services.” The IEP team disagreed with the complainant’s request. The private speech pathologist who conducted the outside assessment shared that the assessments conducted demonstrated that the student’s “receptive and expressive word knowledge...falls within the average range when compared to his [REDACTED]” and “his overall listening and spoken language skills...showed even development across the subtests and indices.” However, the speech pathologist shared that as the student’s learning environment “places more demands on focused auditory learning and reduced visuals with increased complexity of vocabulary... [the student] will undoubtedly struggle.” The PWN reflects the school psychologist reviewed the eligibility criteria tool for [REDACTED], and the IEP team agreed that the student has a diagnosed [REDACTED] but based on the review of the data there is no adverse educational impact being caused by the [REDACTED].

The PWN reflects that the student currently attends a private pre-school and that the student’s parents “were never informed of the services available through an IEP or of the options if he remains in a private school setting.”

11. On July 11, 2024, the student’s parents had a private audiological “speech-in-noise” test conducted for the student.
12. On July 22, 2024, the student’s parents had a private speech-language evaluation conducted for the student.
13. On August 7, 2024, the complainant sent a letter and email to BCPS legal staff stating that BCPS recently completed evaluations of the student that did not fully address his educational needs. The complainant attached a copy of the private evaluations the parents had completed for the student and requested an IEP meeting to consider the evaluations to include two members of the BCPS deaf [REDACTED] department. The BCPS school team was not included in the correspondence.
14. On October 8, 2024, the complainant filed a mediation and hearing request with the Office of Administrative Hearings. The basis for this request was that the BCPS “failed to hold an IEP meeting to consider the private evaluations” that were provided on August 7, 2024.

15. On October 31, 2024, BCPS school-based staff emailed the student's parents and offered to convene an IEP meeting "to review the assessments that were completed with [the student] in August [2024]." The email requested the parents to provide "data for the current academic year to gain a comprehensive perspective on [the student's] development [to include] teacher reports, quantitative trial data for reading, writing, and math, and student work samples."
16. On November 4, 2024, the student's parents shared that they would be available to meet on November 25, 2024.
17. On November 25, 2024, the IEP team reconvened to discuss the results of the outside assessment reports provided by the student's parents. The PWN generated after the meeting reflects that the IEP team included a teacher of the [REDACTED], the complainant, the student's parents, the private speech pathologist, a learning specialist and the dean from the student's private school, the BCPS school administrator/designee, a general educator, school pathologist, and a special educator. The IEP team considered the speech-language evaluation report, audiological progress notes, and pre-K educational progress information. The school-based team agreed that the student has a [REDACTED], but "does not have data to suspect a disability under the IDEA based on the information presented which coincides [with] prior information considered by the IEP team."

The PWN reflects that complainant inquired about a 504 plan "and indicated that [the school] has never discussed the development of a 504 plan." During the December 2023, meeting a 504 plan was mentioned, however, the student was not enrolled in BCPS at that time, and continues to be enrolled in a private school setting therefore the student was not deemed eligible for a 504 plan. The complainant requested that a draft 504 plan be presented to the student's parents, and the BCPS attorney and school psychologist informed them that an SST meeting would need to be scheduled but a 504 plan would not be developed for a private school student. The IEP team reported that it would provide the family with information regarding the SST process, and the SST chairperson would contact the family. The audiologist offered to "conduct an informal observation at his current school to inform the SST process if needed" but "reiterated [the] concerns regarding creating a 504 plan for a student in a private school."

The PWN reflects that the IEP team also considered a learning plan and an articulation screening that the IEP team "did not have access to" prior to the IEP meeting. It was reported that team members would need time to "review the information and reconvene to consider the documents and if there is any suspected disability." The school-based team members did not suspect that the student has an educational disability based on the evaluation of the student's articulation skills, [REDACTED], academic skills, and language skills, and determined that the student's [REDACTED] did not impact his "education warranting specially designed instruction at the IEP meetings held in August 2023, December 2023 and June 2024" but "met to consider the areas presented by the family." The PWN reflects the "data presented by the family, input from the student's parents, [the student's] current school staff in discussion with [BCPS school] staff prior to [this] meeting, input from [the student's] current school staff [and BCPS staff]" demonstrated that the student "continues to be able to access the current learning environment with minimal supports."

The outside speech-language evaluation was reviewed by the private speech pathologist who conducted the evaluation. The PWN reflects the student demonstrated average expressive word knowledge and average scores on subtests including one above average subtest score. It was determined that a significant discrepancy between scores for receptive language and expressive

language was a “manifestation of [the student’s] [REDACTED]s and should be monitored.” The student showed “even abilities” in language content and language memory indices in a “one to one optimal listening environment” but the concern is with regard to “moving from an environment with [REDACTED] redundancy and visuals to a larger class that is noisy, distracting and [REDACTED] focused which poses demands on listening vocabulary and following directions.” It was reported that “as language demands continue to progress from the concrete to the abstract level and as inferencing and understanding of implied meanings become a larger component of his classroom curriculum, [the student] will likely demonstrate increased challenges.” It was shared that for these reasons, and challenges with “overhearing” the student should receive “direct instruction, preview, review and repetition of curriculum vocabulary as well as expanding comprehension and use of figurative/abstract language and inferences...implemented by a teacher of the [REDACTED] [REDACTED].” The PWN reflects that the “team members” did not agree with this recommendation because “based on current data review there is no indication that this level of support or intervention by a teacher of the [REDACTED] of [REDACTED] is warranted.” The [REDACTED] shared that “[REDACTED]” regarding the student’s speech intelligibility in each ear should be “interpreted with caution because it does not simulate a normal classroom setting” but the [REDACTED] [REDACTED] test ([REDACTED]) “indicated [a] [REDACTED] issue in the presence of noise when unaided and a normal score when tested with [REDACTED].” It was reported that the students’ needs could be addressed through accommodations. The team discussed the [REDACTED] provided that the student’s parents provided to the teacher at the beginning of the year, and it was shared that it is currently not being used. Instead, it was reported that the teacher uses a “service plan, which she calls a menu” and shared that the student is able to be seated where he “can look right at the teacher’s face [and] he does engage and participate in the lesson at that time.”

The student’s parents shared that they feel “the data provided indicates a significant educational impact due to [the student’s] [REDACTED] and they chose to delay his start in kindergarten due to a lack of services and educational impact.” It was shared that the student currently attends a private pre-K program where he is provided with a learning plan “which is said to include instructional strategies and general accommodations for [the student].” The BCPS team shared that it would review the plan and “follow-up accordingly.”

The parents provided BCPS with the student learning plan and an articulation screening that was completed by the private school team members who were attending the meeting. BCPS shared that it would need time to review the additional documents as “the team would not be prepared to discuss [the] information at this meeting.” The complainant disagreed with this statement, and BCPS reiterated that the school-based team members would review the information and follow up with the family. It was reported that the family could proceed with an SST meeting if they desired, and an IEP team meeting would be scheduled to review the information provided.

## **DISCUSSION AND CONCLUSION:**

### **Evaluation Procedures**

An IEP team shall complete an initial evaluation of a student within 60 days of parental consent for assessments. To conduct an evaluation, the IEP team shall draw on information from existing data; current classroom-based, local, and Statewide assessments; parent input; and observations by teachers and related service providers. The IEP team shall document its decision. (COMAR 13A.05.01.06).

As part of an initial evaluation the IEP Team and other qualified professionals must review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments, and classroom-based observations; and observations by teachers and related services providers. (34 CFR § 300.305).

In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each public agency must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and ensure that information obtained from all of these sources is documented and carefully considered. (34 CFR § 300.306).

In this case, consent was provided for evaluations in November 2023, and the evaluations were considered in an IEP meeting in December 2023. Upon the initial evaluation review, the student was deemed ineligible for special education services but may have been eligible for a 504 plan if enrolled in a BCPS public school. The student did not enroll in a BCPS public school and the student's parents did not seek a 504 plan. When the parents provided the BCPS with additional assessment data, the IEP team met again in June 2024. In August 2024, the complainant sent additional assessment data to BCPS legal staff, however, it was not forwarded to the school-based team. Although the correspondence sent to the BCPS legal staff triggered the requirement for the BCPS to hold an IEP meeting to consider the new assessment data, it was not until the filing of the complainant's mediation and due process hearing request that the BCPS school-based staff emailed the student's parents to schedule an IEP meeting within 30 days of the request. The parents requested the meeting occur 30 days later than the date proposed by the BCPS. The BCPS possessed new assessment information provided by the family from August 2024 until November 2024, when it was finally considered. This timeline was unreasonably lengthy.

On November 25, 2024, the IEP team convened. The IEP team included members from the staff of the student's current school as well as one of the staff members from the BCPS [REDACTED] department. The parents gave the BCPS additional information at the meeting that was not available previously. Although the BCPS still deemed the student ineligible for special education services and offered the family the option to proceed with an SST meeting, the BCPS team requested an opportunity to review the information provided at the meeting and reconvene to discuss it at a later time, thereby not making an eligibility decision at the meeting.

Based on the Findings of Fact #1 to #17, MSDE finds that the BCPS has not followed proper procedures when identifying and evaluating the student to determine if he is a student with a disability requiring special education and related services, since August 2024, in accordance with 34 CFR §§ 300.301-311 and COMAR 13A.05.01.06. 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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.<sup>2</sup> This office will follow up with the public agency to ensure that it completes the required actions consistent with the 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. Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### **Student-Specific**

By March 3, 2025, MSDE requires the BCPS to provide documentation that the school system has:

- Convened an IEP team meeting to determine the student's eligibility; and
- If the student is determined eligible for special education and related services, convened an IEP team meeting and determined the amount and nature of compensatory services or other remedies to redress the failure to hold an IEP meeting within a reasonable timeframe of the receiving the July evaluation reports within one year of the date of this Letter of Findings.

### **School-Based**

MSDE requires the BCPS to provide documentation by March 3, 2025, of the steps it has taken to ensure that the BCPS staff properly implements the requirements for the implementation of Child Find under the IDEA. These steps must include staff development.

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. Request for reconsideration should be submitted to Tracy Givens, Section Chief, Dispute Resolution, at [Tracy.Givens@maryland.gov](mailto: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,

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<sup>2</sup> 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, 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.

consistent with the IDEA. The 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 in the Department of Special Education, BCPS  
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE  
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