

January 17, 2025

Ms. Jessica Williams
Education Due Process Solutions, LLC
1296 Cronson Boulevard, #4071
Crofton, Maryland 21114

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

RE: [REDACTED]
Reference: #25-143

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 19, 2024, MSDE received a complaint from Ms. Jessica Williams, 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 has not developed an Individualized Education Program (IEP) that addressed the student’s identified academic and behavioral needs, and transition plan since the start of the 2024-2025 school year, in accordance with 34 CFR §§ 300.101, .320, and .324.
2. The BCPS did not ensure that the student received special education services required by the IEP while approved for Home and Hospital services (HHS) since November 2023, in accordance with 34 CFR §§ 300.101, .323, and COMAR 13A.03.05.03D.
3. The BCPS did not ensure that a re-entry plan was developed to assist the student in returning from HHT services, since November 2023, in accordance with 34 CFR § 300.101 and COMAR 13A.03.05.03D.
4. The BCPS has not ensured that the IEP team reviewed and revised, as appropriate, the student’s IEP to address lack of expected progress toward achieving the IEP goals, since November 2023, in accordance with 34 CFR § 300.324.

5. The BCPS did not provide the student with the Extended School Year (ESY) services required by the IEP during the summer of 2024, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is 16 years old and is identified as a student with multiple disabilities emotional disability (ED), specific learning disability (SLD) and other health impairment (OHI), under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. There is documentation that the student required Home and Hospital Services (HHS) in November 2023.
2. On November 16, 2023, the IEP team convened to review the IEP, HHS progress, and transition back to the home school. The prior written notice (PWN) generated following the meeting reflects that the IEP team discussed the student's Least Restrictive Environment (LRE) being amended to full time outside the general education classroom, placement including a recommendation in a BCPS regional Social Emotional Learning (SEL) program and in the BCPS alternative school, the re-entry plan from virtual HHS, to "face-to-face" HHS, to in-person home school attendance. The PWN further reflects that the transition plan would include:
 - An opportunity for the student to meet the art therapist, HHS social worker, and the case manager at the home school;
 - An opportunity for the student to visit the home school library, math classroom, and her potential math teacher;
 - The student would enter the building from the side entrance and be met by a staff member and escorted; and
 - An opportunity for the HHS services to be delivered in-person at the HHS office by the familiar HHS teacher.
3. On December 16, 2023, the BCPS was given a parent provided letter from a private psychologist. The letter reflects that the private provider had been working with the student since August 2023, addressing social anxiety and school refusal. In addition, the letter reflects the following recommendations:
 - Smaller class size, if possible, school with a smaller school body;
 - Reduced workload;
 - Ability to use a separate entrance;
 - Ability to use written and non-verbal communication;
 - Ability to use class when needed;
 - Access to breaks;
 - Access to school counselor;
 - Ability to decline group work;
 - Refrain from cold calling on the student; and
 - Modifications to oral presentation.
4. On December 20, 2023, the IEP team convened to review the IEP. The PWN generated following the meeting reflects that the IEP team reviewed the student's HHS grades, IEP quarterly progress, progress toward the re-entry plan, the consideration of placement BCPS regional SEL program or the BCPS alternative school, and the potential need to continue the student's qualification for HHS.

5. The IEP developed on December 20, 2023, reflects mathematics, social/emotional/behavioral, employment, and education/training as areas affected by the student's disability.

The IEP required a LRE of homebound and hospital services. "When she returns from home and hospital services, the student will participate with nondisabled peers in English, math, social studies, and science, elective subjects and when receiving social work or art therapy services."

The IEP required:

- 18 hours monthly of special education instruction outside the general education classroom: while receiving HHS the student will receive two one-hour sessions weekly for each of her core area subjects;
- One hour monthly of art therapy outside the general education classroom;
 - While enrolled in HHS, art therapy services will be for 30-minutes twice a month in small groups or one on one.
- One hour and 30 minutes monthly of social work services outside the general education classroom;
 - While enrolled in HHS, social worker services will provide services 3 times monthly for 30-minutes each session.

The present levels of academic achievement and functional performance (PLAAFP) reflect:

- Mathematics: on the 2.1 grade level; [the student's] math levels were in the very low range when compared to her peers;
- Social/Emotional/Behavioral: below age/grade level expectations; [The student] has been receiving HHS since October 2021. She has been having difficulty attending in person...;"
- Transition-Employment: on May 12, 2023, the student reported that they would like to pursue a career in veterinary sciences; and
- Transition-Education/training: the student reported that they would like to pursue a career in veterinary sciences. "[The student] is functioning at a grade equivalency of a 2.1 in mathematics and below grade level expectations for the area of social emotional learning. [The student] will need to continue to work hard to boost her achievement in these areas to meet the minimum requirements to enter a post-secondary program for veterinary sciences."

The IEP contains the following goals:

- Math Problem Solving: "By June 2023, given a one-step, rational number, word problem using any of the four operations, and a calculator, [the student] will identify key information from the problem (e.g. unit rate, variable, total), then write and solve an algebraic equation with 60% accuracy for 3 out of 4 sets of problems;"
- Math Calculation: "By June 2023, when given 20 multiplication and 20 division expressions within 100 on a worksheet (e.g. $5 \times 2 =$, $10 \div 2 =$), [the student] will write the correct product or quotient with 70% accuracy for three out of four targeted trials;"
- "SEL Self-Management: "By June 2024, when [the student] is not participating (e.g. withdrawing or avoiding interaction with teacher/staff) during a school-based activity, when [the student] previously felt anxious, [the student] will select and utilize a self-calming strategy, use an "I Feel" statement to describe her current feeling state, and re-engage with the school-based activity in 2/5 targeted trials;"

- SEL Transition into School Setting: “By June 2024, given [the students] preferred list of coping strategies from an anxiety management plan, [the student] will attend one class period in an in-person school setting for 3 out of 5 school days as measured by observation record;”
- Transition-Employment: related goals are the math problem solving goal; and
- Transition-education/training: related goals are the SEL self-management goal.

The IEP reflects that the student is enrolled in courses of study that align with her postsecondary goals.

The IEP required supplementary aids, services, and accommodations to support her academic, social/emotional/behavioral, and transition needs, including:

- Small group;
- Frequent breaks;
- Reduced distraction to self and others;
- Calculation device on calculator and non-calculator sections;
- Extended time (1.5x);
- Use of manipulatives, weekly;
- Have student repeat and/or paraphrase information, weekly;
- Break down assignments into smaller units, weekly;
- Chunking of texts, weekly;
- Provided structured time for organization of materials, weekly;
- Social skills training, monthly;
- Teacher check-ins, flash pass to trusted adult, 5-minute early pass, daily;
- Strategies to initiate and sustain attention, daily;
- Noise canceling headphones, weekly;
- Social work consult, monthly as needed: and
- Provide the student with an escort during transitions.

6. On March 13, 2024, the IEP team convened to review the IEP. The PWN generated following the meeting reflects that the IEP team discussed the reverification and extension of HHS, reviewed progress on IEP goals, and progress towards the re-entry plan including possible placements.
7. On April 8, 2024, the IEP team convened to review and revise the IEP. The PWN generated following the meeting reflects that the IEP team reviewed the student’s grade, progress towards IEP goals, progress toward the re-entry plan, revised the IEP including the PLAAFP, supplementary aids, and services, and LRE. In addition, the PWN reflects that the IEP team agreed to amend the following:
 - Social work consult: “will consist of collaboration with parent, school staff, and community-based mental health providers who are involved with the student as it relates to her emotional well-being and functioning in the school setting. School Social Worker will also support the parent in locating and accessing community-based resources to support [the student] as related to her mental health needs and increasing school engagement;” and
 - SEL: Transition Into School Setting goal to “given one-to-one support from a trusted adult, a clear and consistent transportation schedule, and specific coping strategies, [the student] will access the transportation provided to the in-person setting for 5 of 5 school days and remain in the setting for at least one hour as measured by an observation record;” and
 - LRE to full time outside the general education classroom.

8. The IEP developed on April 8, 2024, required the following amendments:

- social work consult, monthly as needed, “school social work consult will consist of collaboration with parent, school staff, and community- based mental health providers who are involved with the student as it relates to her emotional well-being and functioning in the school setting. School Social Worker will also support the parent in locating and accessing community-based resources to support [the student] as related to her mental health needs and increasing school engagement”;
- SEL: Transition into School Setting goal, required the objective, “given one-to-one support from a trusted adult, a clear and consistent transportation schedule, and specific coping strategies, [the student] will access the transportation provided to the in-person setting for 5 of 5 school days and remain in the setting for at least one hour as measured by an observation record” with 70% accuracy;

The LRE required homebound and hospital services. “When she returns from home and hospital services, the student will participate with nondisabled peers in English, math, social studies, and science, elective subjects and when receiving social work or art therapy services.”

9. On May 23, 2024, the IEP team convened to conduct the annual review. The PWN generated following the meeting reflects that the IEP team reviewed teacher reports and grades, post-secondary transition assessments and service options, informal assessments, progress related to gradual re-entry to school, progress shared by the parent, progress on the recently added incentive to actively participate in virtual instruction, and anecdotal information. In addition, it is reflected that the most recent transition-to-school plan was developed to encourage the student to ride in a cab with a trusted adult to the home school building and remain there for one hour before returning home in the cab with a trusted adult.

The PWN further reflects that the “IEP as written included the appropriate goals, objectives, supports, and services in alignment with the student’s documented strengths and needs. In addition, the IEP team completed the ESY request for the 2023-2024 school year document. The document reflects the requirement of two hours monthly of social work services outside the general education classroom from July 8, 2024, to August 2, 2024.

10. The IEP developed on May 23, 2024, required the additional services:

- Transportation; and
- Two hours monthly of social work services outside the general education classroom from July 8, 2024, to August 9, 2024.

The PLAAFP reflects:

- Mathematics: on the third-grade level; “[The student] benefits from the use of a calculation device accommodation... [the student] needs further instruction and remediation with fractions, decimals, and division;”
- Social/emotional/behavioral: is below age/grade level expectations; “[The student] has a long history of anxiety and depression since COVID;”
- Transition-Employment: on May 7, 2024, the student reported that they would like to pursue a career in veterinary sciences; and
- Transition-Education/training: the student will continue to work hard to “boost her achievement” in the areas of math and social/emotional/behavioral “to meet the minimum requirements to enter a post-secondary program for veterinary sciences.”

The IEP required the goals in the following:

- Math Problem Solving: “By May 2025, given a one and two-step, rational number, word problems using any of the four operations, and a calculator, [the student] will identify key information from the problem (e.g. unit rate, variable, total), then write and solve an algebraic equation with 70% accuracy for 3 out of 4 sets of problems;”
- Math Calculation: “By May 2025, when given 20 multiplication and 20 division expressions within 100 on a worksheet (e.g. $5 \times 2 =$, $10 \div 2 =$), [the student] will write the correct product or quotient with 75% accuracy for three out of four targeted trials;”
- “SEL Self-Management: “By May 2025, when [the student] is not participating (e.g. withdrawing or avoiding interaction with teacher/staff) during a school-based activity, when [the student] previously felt anxious, [the student] will select and utilize a self-calming strategy, use an “I Feel” statement to describe her current feeling state, and re-engage with the school-based activity in 3/5 targeted trials;”
- SEL Transition into School Setting: “By May 2025, given [the students] preferred list of coping strategies from an anxiety management plan, [the student] will attend one class period in an in-person school setting for 3 out of 5 school days as measured by observation record;”
- SEL Participation: “By May 2025, given a provider-managed incentive program and clearly defined expectations for participation and engagement in all environments (academic, individual social work sessions, and during direct art therapy sessions), the student will participate 60% of the time by engaging verbally or through written or gestural responses in each environment, as measured by provider observation and charting;”
- Transition-Employment: related goals are the SEL self-management and the SEL participation goals; and
- Transition-education/training: related goals are the math problem solving goal and the SEL participation goal.

The IEP required additional supplementary aids, services, and accommodations to support her academic, social/emotional/behavioral, and transition needs, including:

- Provide student with copy of student/teacher notes, weekly;
- Art therapists consult private separate day school staff periodically.

The IEP required ESY.

The LRE required homebound and hospital services. “When she returns from home and hospital services, the student will participate with nondisabled peers in English, math, social studies, and science, elective subjects and when receiving social work or art therapy services.”

The IEP does not reflect that the student required the provision of an escort during transitions.

11. On August 21, 2024, the IEP team convened to discuss the IEP, progress during ESY, progress towards goals that were reported as not making progress, and the need for assessments. The PWN generated following the meeting reflects that the IEP team agreed to conduct assessments, reviewed that the IEP contained appropriate goals, objectives, supports, and services, and reviewed parental input. In addition, it is reflected that “the student will continue to receive Free Appropriate Public Education (FAPE) until she is accepted and attends a non-public school.”

There is documentation that a referral to a non-public school was completed at this meeting.

12. The student's IEP amended on August 21, 2024, reflects that the student was eligible for ESY 2024 for social work services. The IEP required:
 - 29 hours and 21 minutes weekly of special education instruction outside the general education classroom from August 21, 2024, to May 23, 2025;
 - Upon the student's return to face-to-face environment; and
 - During HHS she will receive two one-hour sessions weekly for each of her core area subjects.
13. The BCPS August 25, 2024, Art Therapy Assessment Report, reflects the recommendations that the student would benefit from art therapy services to help support self-regulation to increase emotional regulation and communication inside the school building.
14. The BCPS August 26, 2024, Psycho-Social Assessment, reflects the recommendation that "school social work services have been delivered at a frequency of three 30-minute sessions per month for several years as part of [the student's] IEP targeting self-management and transition to school goals. Direct services continue to be recommended."
15. The BCPS October 15, 2024, Psychological Assessment Report, reflects the recommendation that:
 - The student receives outside counseling;
 - Provide daily behavior and progress monitoring chart to assist with work completion and organizational skills;
 - Make necessary adjustments in the environment to help prevent the student from expressing stress, frustration, and anger;
 - Teach the student to verbalize feelings before losing self-control;
 - Extended time; and
 - Reduced distractions.
16. On October 17, 2024, the IEP team convened to discuss the IEP, review progress, discuss the provision of the FAPE plan, enrollment in HHS, current credit status, and delivery of art therapy services. The PWN generated following the meeting reflects that the IEP team discussed the intended topics including parental concerns, transition services and activities, credits towards graduation, the non-public referral process, and the student's status as awaiting placement in a Private Separate Day School.
17. The IEP developed on October 17, 2024, required a LRE of a private separate day school. The IEP reflects that when the student returns from HHS, the IEP team determined that given the student's goals, services, and accommodation, and learning profile, services should be provided in a private separate day school.

The IEP required 29 hours and 21 minutes weekly of special education instruction outside the general education classroom: while receiving HHS the student will receive two one-hour sessions weekly for each of her core area subjects; from August 21, 2024, to May 23, 2025.
18. There is documentation that on October 23, 2024, the student was re-certified for HHS.
19. The BCPS Education Assessment completed on November 12, 2024, reflects that when compared to same age level peers the student's overall level of academic skills falls within the low average range. She scored very low in math, low average in reading, and average in written language. It is further reflected that the student "requires interventions to improve her skills in mathematics: fluency, calculation and applied problems."

20. On November 19, 2024, the IEP team convened at the parent's request to review assessment data, progress and FAPE provision. The PWN generated following the meeting reflects that the IEP team reviewed recent assessment data (educational, social/emotional), based on the assessment data the IEP team agreed to make amendments to the IEP including the addition of a math goal. The IEP team also reviewed IEP progress. It is further reflected that the student was referred for placement in a non-public private separate day school and is awaiting a start date. The IEP team agreed to continue this meeting due to time constraints.
21. The IEP developed on November 19, 2024, included additional supplementary aids, services, and accommodations to support her academic, social/emotional/behavioral, and transition needs, adult support.

The IEP required 29 hours and 55 minutes weekly of special education instruction outside the general education classroom. "When the student returns from Home and Hospital, the team determined that given the student's goals, services, accommodations, and learning profile, services should be delivered in a Private Separate Day School."

22. On December 9, 2024, the IEP team convened to conclude the IEP team meeting from November 19, 2024. The PWN generated following the meeting reflects that the IEP team reviewed IEP progress, teacher and service provider notes, discussed HHS and the provision of FAPE plan, reviewed previously discussed educational assessments, discussed parental concerns, and amendments to the IEP, including the addition of a reading fluency goal. It is reflected that the IEP team rejected the parental and advocate's request to conduct a Functional Behavior Assessment (FBA). In response, the IEP team reviewed the student's incentive goal.
23. The IEP developed on December 9, 2024, reflects the addition of reading fluency as an area affected by the student's disability.

The PLAAFP reflects reading fluency on the fifth-grade level. The student's reading fluency falls in the low range. The PLAAFP for mathematics and social/emotional/behavioral reflects updated data.

The IEP requires an additional goal for reading:

- "By May 2025, given opportunities for repeated reading of leveled texts, incorporating strategies like choral reading, echo reading, and close attention to phrasing and expression, the student will improve the reading rate as measured by timed readings with accuracy checks" with a 5% increase.
24. The quarterly progress reports reflect the following progress towards the expected achievement towards the IEP goals:
- Math Problem Solving:
 - January 23, 2024, making sufficient progress to meet goal;
 - April 5, 2024, making sufficient progress to meet goal;
 - June 3, 2024, newly introduced skill; progress not measurable at this time; and
 - October 31, 2024, making sufficient progress to meet goal.
 - Math Calculation:
 - January 23, 2024, making sufficient progress to meet goal;
 - April 5, 2024, making sufficient progress to meet goal;
 - June 3, 2024, newly introduced skill; progress not measurable at this time; and
 - October 31, 2024, making sufficient progress to meet goal.

- Social Emotional Learning: Self-Management:
 - November 4, 2023, not yet introduced;
 - January 17, 2023, not making sufficient progress to meet the goal (IEP team needs to meet to address insufficient progress);
 - April 5, 2023, not making sufficient progress to meet the goal (IEP team needs to meet to address insufficient progress);
 - June 14, 2024, not making sufficient progress to meet the goal (IEP team needs to meet to address insufficient progress); and
 - October 31, 2024, making sufficient progress to meet goal.
- Social Emotional Learning: Transition Into School Setting:
 - January 23, 2024, making sufficient progress to meet goal;
 - April 5, 2023, not making sufficient progress to meet the goal (IEP team needs to meet to address insufficient progress);
 - October 31, 2024, not making sufficient progress to meet the goal (IEP team needs to meet to address insufficient progress);
 - June 14, 2024, not making sufficient progress to meet the goal (IEP team needs to meet to address insufficient progress); and
 - August 1, 2024, no progress code reported. It is further reflected that the student did not attend social work sessions during ESY 2024.

“... during week one she did not come to the school building (emotionally overwhelmed). Week two, during the home visit, she did not participate in session due to exhaustion triggered by high anxiety and depression. Week three, unable to attend session at school building due to emotional challenges and unable to schedule a home visit due to conflicting schedule with parents. Week four, student refused to participate in originally scheduled virtual session due to emotional struggles/challenges. Second attempt (next day) there were computer issues. Student and parent were not available to attempt again for the rest of the week. Mother agreed to resume services when school resumes.”

Social Emotional Learning Participation

- June 14, 2024, making sufficient progress to meet goal; and
- October 31, 2024, making sufficient progress to meet goal.

25. There is documentation that the provision of HHS ended on the last day of the 2023-2024 school year.
26. There is documentation that the student received HHS as required by the IEP while approved for HHS. There is documentation that the student consistently was unable to participate due to her anxiety, computer issues, or the parent's schedule.
27. There is documentation that the BCPS developed an HHS re-entry plan.
28. There is documentation that the student received social work services as required by the IEP during ESY 2024. “[The student] attended 0 social work sessions at school during ESY. [The student] was struggling emotionally throughout ESY... Mother agreed to resume services when school resumes.”

CONCLUSIONS:

Allegation #1 An IEP that Addressed the Academic and Behavioral Needs

Based on the Findings of Fact #2 through #23, MSDE finds that the BCPS has developed an IEP that addressed the student's identified academic and behavioral needs, and transition plan since the start of the 2024-2025 school year, in accordance with 34 CFR §§ 300.101, .320, and .324. Therefore, MSDE finds no violation concerning this allegation.

Allegation #2 Provision of HHS

In this case the student was approved for HHS from November 2023 to the end of the 2023-2024 school year. The student was reapproved for HHS on October 23, 2024.

Based on the Findings of Fact #1, #5, #8, #10, #18, #25, and #26, MSDE finds that the BCPS did ensure that the student received special education services required by the IEP while approved for HHS since November 2023, in accordance with 34 CFR § 300.101, .323, and COMAR 13A.03.05.03D. Therefore, MSDE finds no violation concerning this allegation.

Allegation #3 Re-Entry Plan

Based on the Finding of Fact #27, MSDE finds that the BCPS did ensure that a re-entry plan was developed to assist the student in returning from HHT services, since November 2023, in accordance with 34 CFR § 300.101 and COMAR 13A.03.05.03D. Therefore, MSDE finds no violation concerning this allegation.

Allegation #4 Addressed Lack of Expected Progress

Based on the Findings of Fact #2, #4, #6, #7, #9, #11, #16, #20, #22, and #24, MSDE finds that the BCPS has ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address lack of expected progress toward achieving the IEP goals, since November 2023, in accordance with 34 CFR § 300.324. Therefore, MSDE finds no violation concerning this allegation.

Allegation #5 Provision of ESY 2024 Services

Based on the Findings of Fact #10, #11, #12, and #28, MSDE finds that the BCPS did provide the student with the ESY services required by the IEP during the summer of 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds no violation concerning this allegation.

TIMELINE:

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. The written request for reconsideration should be provided to Tracy Givens, Section Chief, Dispute Resolution via email 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/sd

c: Dr. Myriam Rogers, Superintendent, BCPS
Charlene Harris, Supervisor of Compliance, Special Education, BCPS
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS
Norma Villanueva, Compliance Specialist, BCPS
[REDACTED], School Principal, [REDACTED], BCPS
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
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