


January 31, 2025





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

Re: 
Reference: #25-158

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.

ALLEGATION:

On December 4, 2024, MSDE received a complaint from  and  hereafter, “the complainants”, on behalf of the above-referenced student. In that correspondence, the complainants 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 did not provide the student with speech-language services required by the Service Plan/Individualized Education Program (IEP), since January 31, 2024, in accordance with 34 CFR § 300.138¹ and .323.

BACKGROUND:

The student is six years old and is identified as a student with Speech-Language Impairment under the IDEA. He has been parentally placed at  since school year 2023-2024 and has a service plan that requires the provision of speech-language services from BCPS.

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, there is no individual right of action to receive any services. However, the Office of Special Education at the U.S. Department of Education has advised that if a parentally placed student has not received some or any of the services identified on their IEP, 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.

FINDINGS OF FACT:

1. On January 31, 2024, the IEP team convened to develop an initial IEP; the student was parentally placed at a private school. The IEP requires 30 minutes of speech-language services per week. The IEP further reflects that the services can be virtual or in person depending on the student's school status.
2. The parent signed consent for initial services on February 5, 2024.
3. There is documentation that the complainants registered the student with BCPS to receive the private parentally placed IEP services on March 19, 2024.
4. The BCPS speech service logs reflect that the student began services on April 8, 2024, and received services on April 24, 29, and May 6, 13, and 20, 2024. The student was absent on April 15, 2024. The provider was absent on April 22, 2024.
5. There is documentation that from August 28, 2024, through October 23, 2024, the BCPS did not have a speech provider available.
6. The BCPS speech service logs reflect that the student received services on October 30, November 6, and December 9, 16, and 18, 2024 and January 8, 2025. The provider was unavailable/absent on November 13, 18, and 25, 2024. Speech sessions were cancelled on December 2, 2024, due to a power outage.

The speech logs also reflect that all missed sessions since the start of services in October 2024 have been made up.

7. There is documentation that the BCPS policy for parentally placed private students reflects that students are serviced from "Labor Day" until May 31 of the school year.

CONCLUSION:

Based upon Findings of Fact #1 through #7, MSDE finds that the BCPS did not consistently provide the student with speech-language services required by the Service Plan/Individualized Education Program (IEP), since January 31, 2024, in accordance with 34 CFR § 300.138 and .323. Therefore, this office finds that a violation occurred concerning the 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 timeframes below to ensure that noncompliance is corrected in a timely manner.² 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 Branch, MSDE, to ensure the effective implementation of the action.³ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Based

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 consistent services pursuant to his services plan and compensatory services would be an appropriate remedy. However, these services are only available for parentally placed students if 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, that the BCPS determine whether they have expended their 2024-2025 proportionate share set-aside. If they have not, and the missed services have not been made up, the [REDACTED] IEP team must convene to determine appropriate compensatory services for the violation identified above. Documentation of the made-up services must be provided to MSDE by June 2, 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. Request for reconsideration should be sent directly 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.

²The 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.

³ 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 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 Coordinator, BCPS
Charlene Harris, Supervisor Special Education Compliance, BCPS
Norma Villanueva, Special Education Compliance, BCPS
Alison Barmat, Branch Chief, Family Support/Dispute Resolution, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Dr. Paige Bradford, Chief, Program Support and Technical Assistance, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE