


February 7, 2025




Ms. Allison Myers
Executive Director
Baltimore County Public Schools
Jefferson Building, 4th Floor
105 W Chesapeake Avenue
Towson, Maryland 21204

RE: 
Reference: #25-174

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 December 11, 2024, MSDE received a complaint from , hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore County Public School (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 follow proper procedures when conducting a reevaluation of the student during January 2024, in accordance with 34 CFR §§ 300.303-.306.
2. The BCPS has not ensured that the student has been consistently provided with a dedicated aide, as required by the Individualized Education Program (IEP) since December 2023, in accordance with 34 CFR §§ 300.101 and .323.
3. The BCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student’s educational record since January 2024, in accordance with 34 CFR § 300.613, specifically, the student’s data from specials classes.
4. The BCPS did not follow proper procedures when determining the student’s Least Restrictive Environment (LRE), including providing a continuum of alternative placements in November 2024, in accordance with 34 CFR §§ 300.114 -.116.

BACKGROUND:

The student is eight years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. The student currently attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

FINDING OF FACTS:

1. On January 30, 2024, the IEP team convened to conduct a reevaluation of the student to determine eligibility for special education services under IDEA.

The areas identified for reevaluation were academic performance, intellectual/cognitive functioning, emotional/social/behavior development, and review of records in speech-language and occupational therapy (OT).

The Prior Written Notice (PWN) generated after the IEP meeting reflects that the team reviewed current informal and formal assessments and recommended that the IEP team identify the student as having Multiple Disabilities (MD) to address her needs in the areas of cognition, speech-language, as well as her history of physical challenges related to OHI due to partial agenesis of the corpus callosum and a history of seizures.

The IEP team reviewed an educational assessment conducted in November 2023, a psychological assessment completed in December 2023, and classroom observations conducted in December 2023. The team also completed a disability criteria form for MD, OHI, and Speech-Language Impairment (SLI) by history, although a speech-language assessment was not conducted. The most recent speech-language assessment used for review was conducted in 2022.

Based on the evaluations and criteria reviewed, the IEP team determined that the student qualified under the category of MD.

The PWN reflects that the advocate expressed concerns regarding why the student did not qualify for an Intellectual Disability (ID) with a General Conceptual Ability (GCA) score within the low range, citing discrepancies between the adaptive rating scores provided by the teacher and the complainant. The school psychologist stated that a more comprehensive adaptive rating assessment could be conducted if the complainant agreed.

During the conversation, the speech pathologist indicated she “would not support ID eligibility but rather another classification.” It was shared that the student presents with academic deficits, cognitive impairment, ADHD, communication challenges, corpus callosum differences, and adaptive deficits/weaknesses, which would support eligibility MD rather than the current classification of OHI.

The PWN further reflects that she has a disability under OHI and requires direct instruction in reading/phonics, math, fine motor skills, communication, and social-emotional strategies. Additionally, the PWN states that the IEP team agreed to meet on February 13, 2024, to update the IEP based on the current data.

2. On January 30, 2024, the complainant was provided a copy of the documents used to determine eligibility.
3. On January 30, 2024, BCPS generated a Parent Notification of IEP Team Meeting for an IEP meeting to be held on February 27, 2024, to review, and revise the IEP.
4. On February 27, 2024, the IEP team convened to update the student's IEP based on the most recent data. The PWN reflects that the IEP team reviewed the students' supplementary aids and services and noted since the addition of a one-on-one adult assistant (AA), disruptions have decreased, and work completion has improved. It was noted that the AA does not accompany the student to special areas (e.g., gym, art, music) based on teacher feedback regarding her engagement and participation in those settings.
5. Concerns were raised by the complainant and advocate, who believe the AA should attend special areas for consistency, safety, and support in following directions. The team stated that there is currently no data supporting the need for the AA in these settings but agreed to collect data from special area staff and report back at the next meeting. The complainant specifically requested that the AA attend gym due to past incidents, including one in the gymnasium.

It was clarified that, according to the IEP, the additional adult is present for safety purposes rather than as a designated support for the student alone. The complainant raised concerns about previous safety incidents involving a peer and a pencil. The family disagreed with the decision not to have the AA attend special areas. However, the reevaluation found that significant disruptions and elopement primarily occurred in academic settings rather than special areas.

6. The IEP team updated the student's disability code and made the following instructional changes to the IEP based on recent assessments:
 - Reading and Phonics: Increased outside of the general education classroom instructional time from 30 minutes to 45 minutes daily.
 - Math Support: Changed from no pull-out services to a hybrid model, with 30-minute pull-out sessions three days a week and 30-minute push-in support two days a week.
 - Goal Updates: Phonics and math goals were revised to reflect the most recent assessment results.
7. The IEP, amended on February 27, 2024, reflects that the student requires adult support as a supplementary aid. This support is necessary to provide reminders of expectations and assist her in initiating and completing tasks.

The student's IEP requires a designated adult support individual in the classroom to assist with social, emotional, and behavioral needs. Additionally, she needs adult assistance, including prompting, cueing, and redirection, when completing tasks that require her to explain her thinking in response to questions. During these times, she should receive redirection, rephrasing of requests, and positive feedback to support her engagement and success.

8. On June 4, 2024, the IEP team convened for an annual review of the student's IEP. The PWN reflects that the IEP team proposed to review and revise the IEP. The classroom teacher shared that the student's behavior had improved with the addition of adult support throughout the day. During the IEP meeting, the complainant and her advocate expressed concern that the student had not made progress in reading comprehension and felt she was not academically ready for third-grade standards. The complainant stated that she believed the student would benefit more from placement outside the general education classroom for her entire school day. She also expressed interest in the student being placed in a self-contained classroom within an alternative program in BCPS.
9. The advocate and complainant requested documentation to support the student's progress, as the advocate, who has been working with the student, had observed no improvement. A member of the IEP team reported that work is sent home with the student daily but often remains in her book bag. The IEP team acknowledged the complainant's request and reiterated that the purpose of the meeting was to review and revise the IEP.

The narrative for adult support was updated to reflect verbatim scribing, reading aloud, and rereading text and directions. During the meeting, service hours were reviewed:

- Speech-language: Initially set at 2 sessions of 30 minutes per month. The complainant believed it should be more frequent and disagreed with the proposed frequency. The IEP team proposed increasing it to 6 sessions of 30 minutes per month. The IEP team agreed, but the complainant still felt it should be more.
 - Occupational Therapy (OT): The team agreed on proposed services.
 - Special Education Services: The special education teacher discussed the times the student is pulled out of class, noting that it will impact her time in the general education classroom.
10. The PWN reflects that the advocate believed the student should receive instruction from a special education teacher for all subjects, including math, reading, and both academic and non-academic classes, in a highly structured environment to better support her academic and behavioral needs.
 11. After reviewing the Least Restrictive Environment (LRE), the IEP team selected "inside the general education setting with supports and outside of the general education setting for specialized instruction, including special education services, speech, and OT." However, the family disagreed, stating that no one addressed the student's academic and behavioral concerns. While they feel that supplementary aids are appropriate, they believe the necessary structure is not being provided at the school.

The family also questioned why the student did not qualify for Extended School Year (ESY). The PWN reflects that the IEP team reviewed the criteria, but the complainant disagreed, believing that the nature and severity of the student's needs require ESY support.

Finally, the PWN noted that the complainant received a copy of the Parental Safeguards, which they can reference if they disagree with the IEP team's decisions.

12. On June 4, 2024, after the IEP meeting, the complainant's advocate emailed the IEP team to share her concerns on behalf of herself and the complainant. The email noted:

- The complainant felt like an outsider and not a participant in the meeting;
- The complainant was not asked to participate in the discussion about LRE, services, or ESY;
- The family did not receive any data the IEP team planned to discuss prior to the meeting but were told the teachers send home the student's work daily to support her progress;
- The team kept saying the student made progress but had no data to show it;
- It was shared that adult support is not used when the student is not in the general education setting;
- The last meeting that stated the specials teacher would collect data but the data was not shared with the complainant;
- They disagree with the LRE and services provided to the student.

The complainant requested an additional meeting to share their concerns.

13. On June 12, 2024, BCPS generated a Parent Notification of IEP Team Meeting for an IEP meeting to be held on June 13, 2024, to review and revise the IEP.

14. On June 13, 2024, the IEP team reconvened to review and revise the IEP as appropriate and to address the complainant's concerns regarding ESY services and placement.

The meeting was held to discuss the student's IEP revisions and the complainant's concerns, particularly regarding her eligibility for ESY and the appropriateness of her current academic placement. The complainant emphasized the student's brain injury and its impact on memory, learning, and skill retention, noting the past summer regression. The complainant and advocate requested documentation to confirm the student would not regress over the summer.

Concerns were raised by the complainant about the student missing grade-level instruction due to pull-out services, and whether she should be diploma-bound or certificate-bound. The advocate and complainant reiterated prior concerns regarding services, LRE, and ESY eligibility.

A member of the IEP team shared assessment results indicating the student's reading level was significantly below grade level, with both comprehension and writing difficulties. In math, she struggled with basic single-digit addition. Concerns were also raised about the lack of communication between the school and outside providers, despite the complainant's consent.

The complainant expressed frustration that formal documentation of the student's progress was not provided at the previous meeting, including the data from the special classes. While the school referenced various progress-tracking tools, the complainant wanted tangible evidence. A mistake was acknowledged in completing the ESY page in the prior IEP, which had been copied over incorrectly.

The discussion also touched on the student's independence, with the school aiming to reduce full-day adult support, while the complainant and advocate felt she still required significant assistance. A member of the IEP team emphasized that accommodations alone were insufficient for the student's independent work and assessments. The complainant and advocate stated that the student's current placement does not meet her needs and suggested legal action if necessary.

The team reviewed regression data, acknowledging that the student shows regression after breaks but can regain routines quickly. Based on further discussion, the team ultimately agreed that the student qualified for ESY services. The complainant also requested further discussions on LRE and the possibility of transitioning the student from participating in the general curriculum and state assessments to the Alternate Framework. Since LRE and service frequency were not fully discussed, the complainant requested another meeting to address these concerns further.

15. The IEP team amended the IEP to reflect the student receives adult support to attend special areas classes to provide academic and emotional support.
16. On July 1, 2024, a member of the IEP team emailed the complainant, to schedule a meeting to discuss the student moving from participating in the general curriculum and state assessments to the Alternate Framework.

On July 22, 2024, a member of the IEP team followed up with the complainant about the meeting to discuss the Appendix A.

A member of the IEP team called the complainant on July 29, 2024, to schedule a meeting. The complainant stated that she would get back to them with her availability. She called back on August 26, 2024, and the meeting was mutually agreed upon for September 24, 2024.

17. On September 3, 2024, the complainant emailed a member of the IEP team requesting an update on the four requests she had for an IEP meeting.
18. On September 24, 2024, the IEP team convened to discuss and review Appendix A at the complainant's request. The PWN reflects that during the meeting, the team reviewed the Appendix A criteria worksheet but had to pause because they lacked the necessary data to determine whether the student had a significant cognitive disability. The IEP team proposed conducting an adaptive skills assessment to proceed with the tool, as this assessment had not been requested in June.

The complainant and advocate expressed frustration that, despite raising concerns in June about discussing LRE and the Alternate Framework, the meeting was only now taking place. They also questioned why the assessment had not been completed in January, to which the team responded that cognitive disability was not identified as a concern at that time and was first brought to the IEP team's attention by the complainant in June. The complainant further expressed that she feels her voice is not being heard. The complainant signed consent for an adaptive assessment to be completed on the same day.

19. On October 16, 2024, BCPS conducted a psychological assessment.
20. On October 16, 2024, the student received an individualized student safety plan in which the student is to be accompanied to the restroom at all times/settings.
21. On October 21, 2024, BCPS generated a Parent Notification of IEP Team Meeting for an IEP meeting to be held on November 26, 2024, to review the results of the assessment reports and to review and revise the IEP.

22. On November 5, 2024, via email, the complainant received a copy of the student's AMIRA report. The email made note of the progress the student made since the first time she was assessed in September. In a follow-up email, the complainant requested the student's report from the previous school year. The complainant was then informed via email that the school team was not able to access the report and was seeking assistance from another staff member.
23. On November 6, 2024, a staff member provided the complainant with the requested Amira scores.
24. On November 26, 2024, the IEP team convened to review assessment results and determine eligibility based on the recommended assessment from the previous IEP meeting. The PWN reflects that the team discussed the student's progress, reviewed the adaptive assessment, and analyzed the Appendix A/Alt Tool Framework, determining that the student did not qualify under the requested category.

The PWN further states that the team reviewed the MD eligibility tool and concluded that the student did not meet the criteria, noting that the eligibility determination made in January 2024 was "not appropriate." Instead, the team reviewed the OHI disability worksheet and the speech-language tool and determined OHI as the new disability classification. The student did not qualify for MD because her speech-language standard scores fell within the average range for phonological errors. However, the data used for the speech-language tool is the same data used in January to determine that the student currently "does meet the criteria as a student with a speech or language impairment."

During the meeting, the complainant's advocate expressed concern that the student met the criteria for an ID and requested ID as the disability classification. The school psychologist disagreed, citing assessment data to support her position. The complainant disagreed with the psychologist's interpretation and requested last year's AIRA scores, but the school stated they did not have digital access to those records. The advocate requested that the scores not be used, asserting that they were inaccurate.

Additionally, the IEP team shared the student's progress noting no concerns academically, but the complainant team disagreed, stating that they did not observe the same level of progress at home. The PWN reflects that the team reviewed placement and determined that all services could be provided at the student's home school, [REDACTED]. However, the complainant and advocates disagreed with the school team's decision. They were provided with procedural safeguards and reminded of their dispute resolution rights.

The IEP team identified areas for reevaluation, specifically functional and adaptive performance, using documentation that included the student's diagnosis of partial agenesis of the corpus callosum and a history of seizures. Ultimately, the team determined that the student qualified under the OHI disability classification.

25. On December 2, 2024, the complainant was provided with the PWN from the meeting held on November 26, 2024. On the same day, the complainant replied that the PWN was incorrect and requested that the notes reflect the complainant is not in agreement with changing the student's disability code from MD. The complainant informed the staff that she failed to include everything that was discussed. The complainant stated that she would "not accept the PWN" and would provide a follow-up email.

A team member responded to the email stating “Thank you for sharing your concerns. The team notes are a summary of the meeting; they are not verbatim.”

26. January 3, 2025, via email, the complainant received a copy of the Amira scores the complainant requested in November.
27. The student’s progress report, dated November 2024, reflects that the student is “making sufficient progress to meet goals” for all her annual IEP goals.
28. There is no documentation reflecting that the complainant was provided with the requested data from the special teachers that the IEP team had agreed to collect and provide.
29. There is documentation reflecting that the student was not consistently provided with a dedicated aide, as required by the amended IEP, on June 13, 2024.

DISCUSSIONS AND CONCLUSIONS:

ALLEGATION# 1

PROPER PROCEDURES FOR CONDUCTING A REEVALUATION

The IDEA requires that the IEP address the needs that arise from the student’s disability regardless of the category of disability determined by the IEP team. When conducting a reevaluation, the public agency must ensure that the student is assessed in all areas related to the suspected disability, and that the reevaluation is sufficiently comprehensive to identify all of the student’s special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified. A variety of assessment tools and strategies must be used to gather relevant functional, developmental, and academic information about the student, including information provided by the parents, to assist the team in determining whether the student is a student with a disability and in determining the content of the student’s IEP (34 CFR § 300.304).

As part of the reevaluation, the IEP team must review existing data, including evaluations and information provided by the parents, current classroom-based, local, or State assessments, classroom-based assessments, and observations by teachers and related service providers. On the basis of that review, and input from the student’s parents, the team must identify what additional data, if any, are needed to determine whether the student continues to meet the criteria for identification as a student with a disability and whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals in the IEP (34 CFR § 300.305 and COMAR 13A.05.01.06).

Based on Findings of Fact #1 through 6, MSDE finds that the BCPS did follow proper procedures when conducting a reevaluation of the student during January 2024, in accordance with 34 CFR §§ 300.303-.306. Therefore, MSDE does not find a violation.

ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION

In this case, the school team conducted an additional reevaluation to determine whether the student qualified for the Appendix A/Alt Tool Framework. During this evaluation, the IEP team reviewed the disability criteria worksheets for MD, OHI, and SLI and determined that the student no longer qualified for an MD disability code. However, there is no documentation indicating that the IEP team used updated data in the

area of speech or language to determine that the student no longer qualified as having a speech or language impairment, as she did in the initial eligibility meeting held in January 2024. It is not credible that, using the same data, a matter of months later, with no documentation of any other data being considered, there is a change to an eligibility determination.

Based on Findings of Fact #18, #19, #21, #24, and #25, MSDE finds that the BCPS did not follow proper procedures when conducting a reevaluation of the student on September 2024, in accordance with 34 CFR §§ 300.303-.306. Therefore, MSDE finds a violation.

ALLEGATION #2 PROVISION OF A DEDICATED AIDE

Based on Findings of Fact #15 and #29, MSDE finds that the BCPS has not ensured that the student has been consistently provided with a dedicated aide, as required by the IEP since June 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds a violation.

ALLEGATION #3 **ACCESS TO STUDENT RECORDS**

Based on Findings of Fact #5, #12, and #28, MSDE finds that the BCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since January 2024, in accordance with 34 CFR § 300.613, specifically, the student's data from specials classes. Therefore, MSDE finds a violation.

ALLEGATION #4 LEAST RESTRICTIVE ENVIRONMENT

The IDEA requires that the public agency ensure that, to the maximum extent appropriate, students with disabilities are educated with students who are not disabled. Further, the IDEA requires that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved (34 CFR §§300.114 - .116).

Based on Findings of Fact #24 and #27, MSDE finds that the BCPS followed proper procedures when determining the student's LRE, including providing a continuum of alternative placements in November 2024, in accordance with 34 CFR §§ 300.114 -.116. Therefore, MSDE does not find a violation.

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 manner¹. 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 action². Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the BCPS to provide documentation by April 15, 2025, that the IEP team has convened and determined whether the violation related to the violation outlined in this letter had a negative impact on the student's ability to benefit from the education program. Suppose the team determines that there was a negative impact. In that case, it must also determine the amount and nature of compensatory services or other remedy 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 complainant is provided with written notice of the team's decisions. The complainant maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

MSDE requires the BCPS to provide documentation by April 30, 2025, of the steps it has take to ensure that [REDACTED] staff properly implements the requirements for conducting a reevaluation and determining eligibility under each disability code under IDEA. Those steps must include professional development and internal monitoring by BCPS to ensure that these violations do not reoccur.

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 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.

¹ 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.

² 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. 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/sj

c: Dr. Myriam Rogers, Superintendent, BCPS
Charlene Harris, Supervisor of Compliance, Special Education, BCPS
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS
Norma Villanueva, Specialist, Special Education Compliance, BCPS
[REDACTED], [REDACTED], Principal, BCPS
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Stephanie James, Complaint Investigator, MSDE