



Mohammed Choudhury  
State Superintendent of Schools

July 29, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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

RE: [REDACTED]  
Reference: #22-175

Dear Parties:

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

**ALLEGATIONS:**

On June 1, 2022, the MSDE received a complaint from Mr. [REDACTED] and Ms. [REDACTED], hereafter, “the complainants,” on behalf of their daughter 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) with respect to the above referenced student.

The MSDE investigated the following allegations:

1. The BCPS has not ensured that the student’s Individualized Education Program (IEP) addresses her academic needs since the start of the 2021-2022 school year, in accordance with 34 CFR §300.324.

██████████  
██████████  
Ms. Allison Myers

July 29, 2022

Page 2

2. The BCPS has not ensured that the student has been consistently provided with specialized instruction as required by the IEP, since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323.
3. The BCPS has not ensured that the student's IEP was reviewed and revised, to address her lack of expected progress toward achieving the "phonological awareness and numbers and operations in base ten" IEP goals, since June 22, 2021, in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is ten years old and is identified as a student with an Intellectual Disability under the IDEA. She attends ██████████ School and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATION #1: IEP THAT ADDRESSES THE STUDENT'S ACADEMIC NEEDS**

**FINDINGS OF FACTS:**

**August 10, 2021, IEP**

1. The student's IEP in effect at the start of the 2021-2022 school year was developed on August 10, 2021. The IEP reflects that she has identified academic needs in the areas of mathematics and reading. The IEP requires specialized instruction for four hours and thirty minutes per day outside of the general education setting in English, math, science, and social studies. Additionally, the IEP requires that she be provided with daily organizational aids, that the "student is to repeat/paraphrase information", use of a word bank, use of pictures to support reading passages, and adult support, as needed, during academics.
2. The student's present level of performance in the area of mathematics reflects that she performs below grade level expectations. The IEP team determined that the student can rote count to twenty, count with 1:1 correspondence up to number ten, match sets of objects, colors, and shapes, compare numbers with support, and demonstrate double digit numbers are groups of tens and ones. The IEP team further determined that the student has difficulty "explaining her conservation of numbers, numeral recognition and writing with numbers 6 through 20, subitizing or instant recognition of quantities, representing addition and subtraction in many ways, decompose or break apart numbers in a variety of ways, and finding the number that makes 10 when added to a given number." The student's mathematics IEP goal developed by the team states that the student "will be able to apply knowledge of whole numbers using strategies based on place value properties of operations, and/or the relationship between addition and subtraction in order to use a hundred chart, number line and or place value manipulatives to solve 4 out of 5 calculation problems with numbers within 10.

Ms. Allison Myers

July 29, 2022

Page 3

3. The student's present level of performance in the area of reading reflects that she performs at the beginning of kindergarten level. The IEP team determined the student is interested in learning to read, can visually discriminate letters, and "understands sound/symbol relationships." The IEP team further determined that the student has difficulty with "phonemic awareness and automatic sound/symbol relationships." The student reading IEP goal developed by the IEP team states "when orally given phonemes in a 2-3 sound word and visual supports (alphanumeric boxes, a picture of the word, manipulatives to represent syllables or sounds), the student will accurately segment and blend 7 out of 10 words."

#### **May 18, 2022 IEP**

4. The student's IEP developed on May 18, 2022, reflects the student has identified academic needs in the areas of mathematics and reading. The IEP requires specialized instruction for four hours and thirty minutes per day outside of the general education setting in English, math, science, and social studies. Additionally, the IEP requires daily "student repeat/paraphrase information", use of pictures to support reading passages, and adult support as needed during academics.
5. The student's present level of performance in the area of mathematics reflects that she performs below grade level expectations. The IEP team determined the student can independently count to 39, match the amount of money when given an amount of money, independently read dollar amount, compare different amounts of an object, identify shapes, solve addition and subtraction equations using numbers within 5. The student's mathematics IEP goal developed by the team states that "when given 10 addition and subtraction equations within 20 and provided with a template, the student will indicate the operation and solve 5 out of 10 equations with no more than 2 prompts in 2 out of 3 trials."
6. The student's present level of performance in the area of reading reflects that she performs below grade level expectations. The IEP team determined the student is able to read 18 out of 40 pre-primer sight words, produce 21 out of 26 letter sounds, and can choose the picture that represents a given letter sound. The student's reading IEP goal developed by the team states that "when given 10 CVC words, the student will be able to produce the beginning, middle and ending sound and blend in order to produce the word in 6 out of 10 words in 2 out of 3 trials."

#### **CONCLUSION:**

Based on Findings of Facts #1 - #6, the MSDE finds that the BCPS ensured that the student's IEP addresses her academic needs since the start of the 2021-2022 school year, in accordance with 34 CFR §300.324. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ALLEGATION #2: PROVISION OF SPECIALIZED INSTRUCTION**

**FINDINGS OF FACTS:**

7. Samples of the student's work demonstrate that she is being provided with specialized instruction in the skills identified in her academic IEP goals.
8. Reports of the student's progress prepared on November 5, 2021, January 25, 2022, and April 1, 2022 indicate that the student is provided with specialized instruction in the areas identified by the IEP team as academic areas of need.
9. The "Student Summary" prepared May 18, 2022, indicates that the student is provided with specialized instruction in the areas identified by the IEP team as academic areas of need.

**CONCLUSION:**

Based on Findings of Facts #7 - #9, the MSDE finds that the BCPS has ensured that the student has been consistently provided with specialized instruction as required by the IEP, since the start of the 2021-2022 school year, in accordance with 34 CFR §§300.101 and .323. Therefore, this office does not find that a violation occurred with respect to this allegation.

**ALLEGATION #3: ADDRESSING THE LACK OF EXPECTED PROGRESS**

**FINDINGS OF FACTS:**

10. Reports of the student's progress on IEP goals created on June 22, 2021 reflects the student was not making sufficient progress to achieve her annual math and reading goals. The reading goal progress states the student is having difficulty remaining on task. The math goal progress states the student is "having a difficult time maintaining learned math skills" and requires more repetition to maintain current growth.
11. There is no documentation that the IEP team convened to address the student's lack of progress towards achieving the annual IEP goals.

**CONCLUSION:**

Based on Findings of Facts #10 - #11, the MSDE finds that the BCPS has not ensured that the student's IEP was reviewed and revised, to address her lack of expected progress toward achieving the "phonological awareness and numbers and operations in base ten" IEP goals, since June 22, 2021, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to this allegation.

Ms. Allison Myers

July 29, 2022

Page 5

### **CORRECTIVE ACTIONS/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, 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 non-compliance is corrected in a timely manner.<sup>1</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. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [Diane.Eisenstadt@maryland.gov](mailto:Diane.Eisenstadt@maryland.gov).

### **Student-Specific**

The MSDE requires the BCPS to provide documentation by October 1, 2022, that the IEP team has convened to determine whether the violation related to the student's lack of progress towards her IEP goals had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, 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 PGCPs must ensure that the parent is provided with written notice of the team's decisions. The parent maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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<sup>1</sup> 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, 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.

<sup>2</sup> The MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

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██████████  
Ms. Allison Myers

July 29, 2022

Page 6

### **School-Based**

The MSDE requires the BCPS to provide documentation of the steps taken to ensure that the staff at ██████████ properly execute the requirements of the IDEA related to the review and revision of an IEP to address a lack of progress. Please note that any documentation that is submitted relating to a future plan of action must be supplemented with documentation that demonstrates that the plan has been implemented and monitored, prior to the closing of the case.

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 (15) 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 for why the documentation was not made available during the investigation. 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. The MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Marcella E. Franczkowski, M.S.  
Assistant State Superintendent  
Division of Early Intervention/Special Education Services

MEF/tg

c: Darryl Williams  
Conya Bailey  
Jason Miller  
Charlene Harris  
Alison Barmat  
Diane Eisenstadt  
Gerald Loiacono  
Tracy Givens