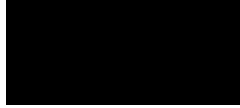



January 17, 2023




Ms. Allison Myers, Executive Director
Special Education Services
Baltimore County Public Schools
105 W Chesapeake Ave
Towson, Maryland 21204

RE: 
Reference: #23-096

Dear Parties:


Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 November 18, 2022, 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 Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegation that the BCPS has not ensured that the student has consistently been provided with the special education instruction, accommodations, and supports required by the Individualized Education Program (IEP) from August 29, 2022, through November 15, 2022, in accordance with 34 CFR §§ 300.101 and .323.

BACKGROUND:

The student is eleven (11) years old and attends  School. He is identified as a student with Other Health Impairment under the IDEA and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. The student’s IEP, in effect on August 29, 2022, was developed on April 21, 2022. It requires that the student be provided with the following supports during instruction and assessments: Audio Amplification, Bookmark (Flag item for review), Blank Scratch Paper, Eliminate Answer Choice, General Administration Directions Clarified, General Administration Directions Read Aloud and Repeated as Needed, Highlight Tool, Headphones or Noise Buffers, Line Reader Mask Tool, Magnification/Enlargement Device, Notepad, Pop-up Glossary, Redirect Student, Spell Check or

External Spell Check Device, Writing Tools, Graphic Organizer, Audio Materials, Frequent Breaks, Reduce Distractions to Self, Reduce Distractions to Others, and Extended Time. In addition, the IEP requires that the student be provided with the following supplementary aids and supports on a “daily as needed” basis:

- Have student repeat and/or paraphrase information
 - Other instructional supports assist in developing organization of assignments/materials
 - Chunking of text
 - Break down assignments into smaller units
 - Use of positive/concrete reinforcers
 - Provide frequent changes in activity or opportunities for movement
 - Preferential seating
2. The student also requires the following Supplementary Aids, Services, Program and Supports daily:
 - Adult support
 3. The student is to receive specialized instruction in the general education classroom, at a rate of 30 minutes per week, four times per week to address reading.
 4. There is evidence of implementation of the following accommodations via work samples and teacher feedback to student:
 - Paraphrase information in written form
 - Other instructional supports assist in developing organization of assignments/materials
 - Use of positive/concrete reinforcers
 5. There is no evidence of the consistent implementation of the following accommodations:
 - Chunking of text
 - Break down assignments into smaller units
 - Use of positive /concrete reinforcers
 - Provide frequent changes in activity or opportunities for movement
 - Preferential seating
 6. There is no clear documentation of how the adult support will be provided to the student or where additional support is needed.
 7. There is some documentation that specialized instruction has been provided at times; however, there is no documentation that specialized instruction has been consistently provided as required by the IEP.

DISCUSSION/CONCLUSIONS:

Based on Findings of Facts #1- #7, MSDE finds that BCPS did not ensure that the student has consistently been provided with the special education instruction, accommodations, and supports required by the Individualized Education Program (IEP) from August 29, 2022, through November 15, 2022, in accordance with 34 CFR §§ 300.101 and .323. Although there is some evidence that the BCPS has implemented some Supplementary Aids, Services, Program and Supports, there is no evidence that the implementation, or specialized instruction, has been provided consistently across the school day. Therefore, MSDE finds a violation with respect to the allegation.

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, 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 manner.¹ 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. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action.² Ms. Eisenstadt can be reached at (410) 767-7770 or by email at diane.eisenstadt@maryland.gov.

Student-Specific

MSDE requires the BCPS to provide documentation by March 1, 2023, that the IEP team has taken the following action:

- a. Ensure that the student is being provided all the Supplementary Aids, Services, Program and Supports as required by the IEP;
- b. Ensure that the student is being provided with specialized instruction as required by the IEP;
- c. Ensure that the student is being provided with all the accommodations as required by the IEP; and
- d. The IEP team has determined 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.

School-Based

MSDE requires the BCPS to provide documentation by May 1, 2023, of the steps taken to ensure that the violation does not reoccur at [REDACTED] School, including professional development and a monitoring plan. The professional development must include processes to ensure implementation of IEPs, documentation of the provision of accommodations and supplementary aids and supports, and specially designed instruction. The monitoring must reflect the implementation of IEP services and supports for a randomly selected set of students at [REDACTED] School over at least two reporting periods.

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

[REDACTED]
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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,

Dr. Deann Collins
Deputy Superintendent
Division of Early Intervention/Special Education Services

DMC:ra

c: Darryl Williams
Charlene Harris
Conya Bailey
[REDACTED]
Gerald Loiacono
Rabiatu Akinlolu