



April 21, 2023



Dr. Courtney Hill
Baltimore City Public Schools
200 E. North Avenue
Baltimore, Maryland 21202

RE: [REDACTED]
Reference: #23-154

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 February 22, 2023, MSDE received a complaint from Ms. [REDACTED], hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public Schools (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student. MSDE investigated the following:

1. The BCPS has not ensured that the student is being provided with the special education classroom instruction and accommodations as required by the Individualized Education Program (IEP), since the beginning of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.
2. The BCPS did not ensure that the student was being provided with one to one support as required by the IEP from February 07, 2023 to February 16, 2023, in accordance with 34 CFR §§300.101 and .323.
3. The BCPS did not ensure that the IEP team meeting convened on February 16, 2023, included the required participants, in accordance with 34 CFR §300.321.

BACKGROUND:

The student is 15 years old and attends [REDACTED]. He is identified as a student with Multiple Disabilities (Autism, Deaf, and 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 IEP in effect at the beginning of the 2022-2023 school year, was developed on August 30, 2022. The areas impacted by the student's disabilities include: Academic- Communication, Academic-Community Functioning, Academic-Math Calculation, Academic- Math Problem Solving, Academic-Reading Comprehension, Academic-Reading Vocabulary, Academic-Written Language Expression, and Health-Hearing. The IEP requires that the student receive Special Education classroom instruction outside of the general education classroom daily for five hours, two 30-minute sessions of speech/language therapy per week, and five one hour sessions of interpreting services per week inside of the general education setting. The IEP also includes instructional and assessment accommodations and accessibility features. The student requires the following supplementary aids, services, program modifications, and supports:
 - a. Semi-Annually - Audiologist consult;
 - b. Weekly supports- access to adult support for American Sign Language (ASL) interpretation in academic setting, allow use of highlighters during instruction and assignments, provide student with copy of student/teacher notes, check for understanding, use of word bank to reinforce vocabulary and/or when extended writing is required, modified content, modified grading system, use pictures to support reading passages whenever possible, home school communication system to monitor attendance, adult support, encourage student to ask for assistance when needed, home school communication system (notebook that the student carries, completed by the Special education teacher and/or TAS and home in order to share information regarding progress and behaviors), picture schedule; and
 - c. Daily- adult supports, preferential seating.
2. During the 2022-2023 school year, the student has been absent 89 days to date. On October 5, 2022, October 25, 2022, February 24, 2023, March 08, 2023, and March 30, 2023, the school staff contacted the complainant by telephone concerning his absences. On October 13, 2022, December 14, 2022, and March 23, 2023 the school staff sent correspondence to the complainant related to the student's attendance, and on March 30, 2023, school staff attempted to conduct a home visit to address the student's attendance. The IEP requires a weekly school to home communication system to monitor attendance, including contacting the parent via telephone, email or notices, regarding the student' attendance to address absenteeism and increase attendance.
3. The student's IEP requires that he be provided with weekly adult support for instructional support and social/behavioral support. The adult support provides ASL interpretation in the academic setting. The service is provided daily by the teacher of Deaf and Hard of Hearing or adult support ASL interpreter. The adult support ASL services are provided by the BCPS staff within the Hearing Impaired program housed in the school. Special education services are provided throughout the school day and across school settings by the special educators, and the paraeducator. The daily adult support for social/behavioral support is provided by a Temporary Adult Support (TAS) to assist the student with navigating the school building, completing tasks, and maintaining safety. The TAS also assists the student with transitioning between activities, arrival and

departures from school, social interaction with peers, remaining focused, and promoting independence. The ASL services are provided by the BCPS staff within the Hearing Impaired program housed in the school.

4. There is documentation that on February 7, 2023 through February 10, 2023, the BCPS provided adult support to the student. Attendance records reflect that the student was present on February 9, 2023, February 10, 2023 and February 14, 2023. On February 14, 2023, the student's assigned TAS was not present and the IEP team implemented the "TAS coverage plan" that was developed for use in the absence of the TAS assistant.
5. On February 16, 2023, the IEP team met for the student. The attendance sheet for the IEP team meeting reflects that the following individuals participated in the IEP team meeting: Special Educator, General Educator, "Principal Designee", Psychologist, Parent, Speech Pathologist, School Counselor, and Audiologist.

DISCUSSION/CONCLUSIONS:

ALLEGATION #1

SPECIAL EDUCATION CLASSROOM INSTRUCTION AND ACCOMODATION

Compulsory School Attendance

State law requires that students below the age of eighteen (18) attend school. The public agency is required to initiate an investigation into the cause of a student's truancy without lawful excuse and may provide counseling regarding community services to assist in improving the student's school attendance. Following investigation or intervention, the public agency may notify the Department of Juvenile Services when a student is habitually truant without lawful excuse (Annotated Code of Maryland, Education Article, §7-301 and §7-302).

Based in the Finding of Facts of #1 and #2, MSDE finds that although there is evidence of the provision of some instruction, attendance records reflect that the student missed a significant number of instructional time. The BCPS did not address the student's truancy, and as a result, did not consistently provide the services as required by the IEP, since the beginning of the 2022-2023 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred with respect to this allegation.

ALLEGATION #2

PROVISION OF ADULT SUPPORT

Based in the Finding of Facts of #3 and #4, MSDE finds that, when the student was present, the student was provided with adult support as required by the IEP from February 7, 2023 to February 16, 2023, in accordance with 34 CFR §§ 300.101 and .323. In the absence of the TAS, the IEP team implemented a substitute plan to ensure the student is supported as required by the IEP. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #3

PROPER PARTICIPANTS AT THE FEBRUARY 16, 2023 MEETING

The IEP team must include the student's parent; at least one (1) regular education teacher of the student if the student is, or may be, participating in the regular education environment; at least one (1) special

education teacher of the student; a representative of the public agency who is qualified to provide or supervise the provision of specially designed instruction, and is knowledgeable about the general education curriculum and availability of resources of the public agency; an individual who can interpret the instructional implications of evaluation results; at the discretion of the parent or public agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and the student when appropriate (34 CFR §300.321).

Based on Finding of Fact #5, MSDE finds that the meeting participants on February 16, 2023, included the parent, a special education teacher of the student, a general education teacher of the student, an audiologist, a school psychologist, the school counselor, a speech pathologist, and the administrative designee, in accordance with 34 CFR §300.321 . Therefore, this office finds that a violation did not occur with respect to this 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 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. Diane Eisenstadt, Compliance Specialist, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action². 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 July 15, 2023, that the BCPS has taken the following actions:

- a. Ensure that the State law and BCPS policies regarding the student's truancy are being implemented and that the student is provided with all supplementary aids, services, program modifications, and supports required by his IEP;

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.

- b. Ensure the implementation of attendance policies and practices to ensure notification of the student's unexcused absences; and
- c. Provide documentation that the IEP team has met to 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.

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. 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
Office of the Deputy Superintendent of Teaching and Learning

DMC:ra

- c: Sonja Santelises
- Courtney Hill
- Christa McGonigal
- Ray Walker
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