



Mohammed Choudhury
State Superintendent of Schools

May 12, 2023



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

RE: [REDACTED]
Reference: #23-172

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 March 16, 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 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 following allegations:

1. BCPS did not ensure that an Individualized Education Program (IEP) team meeting convened on February 10, 2023, included the required participants, in accordance with 34 CFR §§300.321.
2. BCPS did not follow proper procedures when reviewing and revising, as appropriate, the student’s IEP on February 10, 2023, and March 10, 2023, in accordance with 34 CFR §§300.301-.305 and .324.
3. BCPS did not follow proper procedures when the IEP team determined the placement in which the student would receive special education instruction on February 10, 2023, in accordance with 34 CFR §§300.114 and .116.

BACKGROUND:

The student is twelve years old and is unilaterally placed by his parent, with the agreement of the BCPS for the 2022-2023 school year, at the [REDACTED]. He is identified as a student with Specific Learning Disability

(SLD) under the IDEA and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

1. On February 10, 2023, the IEP team met to conduct an annual review of the student's services plan¹, and develop an IEP for the student. The IEP team noted that areas impacted by the student's disability included Reading fluency, Reading comprehension, Written Language Expression, Math Calculation, and Social Emotional/Behavioral. The IEP team proposed goals and supports to align with those areas of needs.
2. The prior written notice (PWN) generated following the IEP team meeting reflects that the BCPS utilized educational and psychological assessments, reports from the student's private school, and parent reports. The team proposed updates regarding the student's transition to middle school. At the time of the meeting, the student was enrolled at a private school. The BCPS middle school representative was unable to attend the meeting due to an emergency. The parent declined to reschedule the meeting. The parent expressed that the student requires small group, hands-on project based learning and multi-sensory instruction throughout the day in each subject. She expressed concern that the BCPS does not offer "tier 3 research based multisensory instruction." She further proposed that the BCPS continue the student's placement in the private school.
3. The team reviewed and determined instructional and assessment accessibility features, and accommodations. The IEP goals and objectives address the student's areas of educational need. The following supplementary aids and services are required in the general education setting:

Instructional supports

- Visuals, rewording, and cueing of key words during instruction - daily
- Allow use of highlighters during instruction and assignments- daily
- Provide proofreading checklist - daily
- Allow use of manipulatives- daily

Program Modification

- Break down assignments into smaller chunks- daily
- Repetition/clarification of instructions- daily, as necessary

Social/Behavior Supports

- Strategies to initiate or sustain attention - daily
- Interdisciplinary consultation - weekly

The IEP reflects that the team agrees that the student requires daily, targeted, research-based, multisensory intervention in a small group setting to address his significant deficits in phonological awareness, phonics, reading fluency, and spelling. To address this need, the IEP team determined that this service will be provided to the student outside of the general education classroom five times

¹ A services plan is developed for students attending private schools in Baltimore County who are eligible for certain special education services under the IDEA.

per week for 30 minutes per session. The team also discussed support inside the general education classroom during English/Language Arts (ELA) while the student is receiving access to grade level text, and to assist the student with meeting the writing demands of grade level content. The student will receive accommodations, and supplementary aids and services inside the ELA general education classroom five times per week for 45 minutes per session. The student will also receive multisensory models and reteaching of multi-step computational strategies, three times per week inside the mathematics general education classroom for 30 minutes per session.

4. Based on the student's needs, the IEP team determined that the student would receive 2 hours 30 minutes of specialized instruction outside of the general education setting per week, and 5 hours 15 minutes of specialized instruction inside the general education setting per week. Based on the student's needed supports and services, the IEP team considered placement for the student. The IEP team determined that the student's IEP could be implemented in the school he would attend if not disabled was based on recent assessments, the mode of instruction that will best address his deficits including research-based interventions, provision of assessment accommodations and supplementary aids and services.
5. The February 10, 2023, IEP team meeting was attended by the parents, a general educator, a special educator, and an administration designee. The parent expressed concern that a representative from the BCPS middle school that the student would attend in the fall of the 2023-2024 school year did not participate in the meeting, and that the staff present did not have knowledge of the programming proposed for the student. The BCPS members of the IEP team agreed to reschedule the IEP team meeting or meet again at a later date to address her specific concerns. The parent declined to reschedule the meeting.
6. On March 10, 2023, the IEP team met at the parent's request to address her concerns that the student's needs can be met in a public school setting. The assistant principal from the proposed middle school for the student attended the meeting to address the parent's concern. The assistant principal shared insight on the programming, schedule, multi-sensory, tactile, and kinesthetic learning opportunities and researched based interventions to support students with reading deficits. The assistant principal communicated that the middle school can implement the IEP developed on February 10, 2023. Additionally, the parents were informed that they can visit the middle school and observe the classrooms prior to the start of the 2023-2024 school year.

DISCUSSION/CONCLUSIONS:

ALLEGATION #1

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, is knowledgeable about the general education curriculum, and about the availability of resources of the public agency; an individual who can interpret the

instructional implication 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).

In her complaint, the complainant alleges that the BCPS did not ensure that the IEP team meeting convened on February 10, 2023 included a staff member that could appropriately describe the services available to the student in a BCPS middle school. However, based on Finding of Fact #5, MSDE finds that while the IEP team convened for the student did not have participants with precise knowledge pertaining to specific supports available to the student in middle school, the IEP team offered the parent the opportunity to reschedule the meeting or reconvene the meeting with additional staff present. Based on Finding of Fact #6, MSDE finds that the IEP team reconvened and addressed her specific concerns. Therefore, based on Finding of Facts #5 and #6, MSDE finds that the IEP meeting convened on February 10, 2023, included the required participants, in accordance with 34 CFR §§300.321 and that no violation occurred with respect to this allegation.

ALLEGATION #2

REVIEW AND REVISION OF IEP on February 10, 2023, and March 10, 2023

In the development, review, and revision, of an IEP the IEP team must consider the strengths of the child, concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, and the academic, developmental, and functional needs of the child. Additionally, the team must consider special factors to address behavior needs, limited English proficiency, provision of instruction for a child who is blind or visually impaired, and the communication needs of the child (34 CFR §§300.324).

In this case, the complaint alleges that the services and placement determined by the IEP team were determined without her input or knowledge of the services to be provided to the student. However, based on the Finding of Facts #1 through #6 MSDE finds that the IEP team convened for the student on February 10, 2023 and March 10, 2023 considered assessment results for the student, his academic and functional needs, and the concerns of the parents, in accordance with 34 CFR §§300.301-.305 and .324. Therefore, this office does not find that a violation occurred with respect to this allegation.

ALLEGATION #3

PLACEMENT DETERMINATION

Each public agency must ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled (34 CFR § 300.114).

The public agency placement decision is determined at least annually, based on the child's IEP, and is as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs. A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum (34 CFR § 300.116).

Based on the Findings of Facts #3 through #5, MSDE finds that the placement decision made for the student was made in conformity with his least restrictive environment, and that the IEP developed for the student could be implemented in a setting less restrictive than the private school proposed by the complainants, in

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accordance with 34 CFR §§300.114 and .116. Therefore, this office does not find that a violation occurred with respect to this allegation.

TIMELINES:

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

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