



Mohammed Choudhury  
State Superintendent of Schools

July 20, 2023



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

RE: [REDACTED]  
Reference: # 23-242

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 May 18, 2023, MSDE received a complaint from Mr. [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 allegation that the BCPS has not ensured that the student has been consistently provided with the speech/language services required by the Individualized Education Program (IEP), since the start of the 2022-2023 school year, in accordance with 34 CFR §§300.101 and .323.

**BACKGROUND:**

The student is nine years old and attended [REDACTED] School. She is identified as a student with Autism 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 June 1, 2022. The IEP reflects the areas impacted by the disability are communication, mathematics, reading, social/emotional/behavioral, fine motor, and other-physical: sensory. The IEP requires Speech/Language Pathology as a related service, outside of the general education classroom, four times per week for twenty minutes per session.
2. There is no documentation that the student received speech and language services from the start of the 2022-2023 school year until January 5, 2023 due to service provider absences and/or availability.

3. Service logs created for the student reflect that speech and languages services were not provided to the student from January 5, 2023 to the end of the 2022-2023 school year, due to student absences, on the following dates:
  - January 12, 2023
  - February 9, 2023
  - March 2, 2023
  - March 16, 2023
  - March 23, 2023
  - March 30, 2023
  - April 13, 2023,
  - April 27, 2023
  - May 18, 2023,
  - May 25, 2023
4. The service log reflects that SLP services were not provided to the student on February 1, 2023; March 1, 2023; and March 2, 2023, due to provider absences/unavailability.
5. The IEP in effect at the beginning of the 2022-2023 school year, developed on June 1, 2022 requires that the student receive Occupational Therapy (OT) as a related service, three times per week for twenty minutes per session.
6. The service logs reflect that OT services were not provided during the 2022-2023 school year, due to student absences on:
  - September 20, 2022
  - October 7, 2022
  - October 18, 2022
  - October 25, 2022
  - November 11, 2022
  - November 15, 2022
  - November 22, 2022
  - February 27, 2023
  - March 10, 2023
  - March 13, 2023
  - April 17, 2023
  - April 24, 2023
  - May 12, 2023
  - May 15, 2023
  - May 22, 2023
  - May 26, 2023
  - June 2, 2023
  - June 5, 2023
  - June 13, 2023
7. The service logs reflect OT services were not provided during the 2022-2023 school year, due to provider absences/unavailability on:
  - September 21, 2022

- October 11, 2022
- October 14, 2022
- November 2, 2022
- February 1, 2023
- March 1, 2023
- April 11, 2023
- April 14, 2023
- June 8, 2023

### **DISCUSSION/CONCLUSIONS:**

Based on the Finding of Facts #1 through #4, MSDE finds BCPS has not ensured that the student has not been consistently provided with the speech/language services required by the IEP since the start 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 aspect of the violation.

### **ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

Based on the Finding of Facts #5 through #7, MSDE finds BCPS has not ensured that the student has been consistently provided with the occupational therapy services required by the IEP since the start 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 aspect of the violation.

### **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.<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).

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



**Student-specific:**

MSDE requires the BCPS to provide documentation by September 30, 2023, that the IEP team has convened and determined the compensatory services, or other remedy to redress the lack of provision of related services to the student. The IEP team must also develop a plan for the provision of those services within one year of the date of this Letter of Findings. BCPS must ensure that the complainant is provided with written notice of the team's decisions.

**School-based**

MSDE requires the BCPS to provide documentation by October 1, 2023 that it has identified all students with disabilities under IDEA at the student's school who did not receive speech and language or occupational therapy services due to service provider unavailability during the 2022-2023 school year. For those students identified, the BCPS must ensure that an IEP team convenes and determines the amount and nature of compensatory services or other remedy to be provided to the student for the loss of services, and develops a plan for the provision of those services within one year of the date of this Letter of Findings. If a student transfers to another school system prior to the completion of the provision of the remedy, the BCPS may coordinate with the public agency responsible for the education of the student in order to ensure that the remedy is provided.

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  
Division of Early Intervention/Special Education Services

DMC:ra

c: Miriam Yarborough  
Charleen Harris  
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