

January 5, 2024

[REDACTED]

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

RE: [REDACTED]
Reference: #24-067

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 November 8, 2023, MSDE received a complaint from Ms. McVey, hereafter, “the complainant,” on behalf of Ms. [REDACTED], the mother of the aforementioned student. In that correspondence, the complainant alleged that the Baltimore County Public Schools violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the following allegations:

1. The BCPS has not ensured that the student has been provided with special education instruction required by the Individualized Education Program (IEP) since November 2022, in accordance with 34 CFR §§300.101 and 323.
2. The BCPS did not consider possible language barriers to ensure that the student’s parent has understood the proceedings and outcome of IEP team meetings since November 2022, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07.
3. The BCPS has not developed and implemented an Individualized Education Program (IEP) that addresses the student’s identified social, emotional, behavioral, communication, and academic needs since November 2022, in accordance with 34 CFR §§300.101 and .324.

4. The BCPS has not ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address the lack of expected progress toward achieving her IEP goals, since November 2022, in accordance with 34 CFR §§300.101 and 324.

BACKGROUND:

The student is nine years old and is identified as a student with Multiple Disabilities under the IDEA. Between 2018 and 2022, the student attended three different elementary schools. During the 2022-2023 school year, the student attended [REDACTED] School. Prior to the beginning of the 2023-2024 school year, the student enrolled at [REDACTED] School where she is currently a student. The student has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS:

ALLEGATIONS #1 and #3: PROVISION OF SPECIAL EDUCATION INSTRUCTION and DEVELOPMENT AND IMPLEMENTATION OF AN IEP THAT ADDRESSES THE STUDENT'S SOCIAL, EMOTIONAL, BEHAVIORAL, COMMUNICATION, AND ACADEMIC NEEDS

Instruction during the 2022-2023 school year [REDACTED] School, May 13, 2022, IEP

1. The student's IEP dated May 13, 2022, was in effect in November 2022. The IEP reflects that the student was identified as an English Learner with Developmental Delay. The areas affected by her disability included reading, mathematics, written language mechanics, and social/emotional/behavioral. At that time, the student was performing below the kindergarten/pre-kindergarten level in reading, mathematics, social/emotional/behavioral, and written language mechanics. The student's IEP reflected that she has special communication needs but did not require assistive technology.
2. The prior written notice from the May 13, 2022, IEP meeting reflects that the student had been referred for a psychological assessment prior to the meeting to assist in making determinations concerning her education, and in preparation for a review of her special education supports to address developmental delays. At that time the student was in a general education 2nd grade class, with pull-outs and push-in supports for ESOL, reading, and math. It was noted that the student had come to the US when she was two years old and had limited experience in formal education. The student first attended [REDACTED] School for Kindergarten, which ended in Covid virtual instruction. The student attended first grade virtually at [REDACTED], and 2nd grade in-person at [REDACTED] School. The student's mother expressed that the child had regressed in her development when she was approximately 2 years old and was limited in her attention and language in Spanish at home. The student's teachers and support staff stated that she demonstrated excessive reluctance to engage in instruction or special interventions. Results from the psychological assessment reflected that the student exhibited characteristics congruent with intellectual disability and autism. The team determined that the student would continue to qualify for special education services as a student with multiple disabilities who also has significant difficulties sustaining attention.
3. Academically, it was stated that the student had made very minimal progress during the school year and was performing between ages 3-4 years old. When provided a story in Spanish, the student was not able to answer simple Wh questions. Based on this information, the IEP team added 30 minutes of daily instruction within the special education setting with additional adult supports to her IEP. The student went from receiving two hours and thirty minutes of specialized instruction weekly in a small group or

with 1:1 support inside the general education setting to receiving an additional two hours and thirty minutes of specialized instruction weekly outside of the general education environment to be provided by the special educator or instructional assistant. The prior written notice states that “adult support should be provided to [the student] in order for her to access learning at her level.”

4. The IEP developed from this meeting included the following:
 - Instructional and assessment accommodations: audio amplification, bookmark items 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, small group, specified area or seating, frequent breaks, reduce distractions to self and others, monitor test response, and extended time (1.5x).
 - Supplementary aids, services, program modifications and supports: allow use of organizational aids (weekly as needed), allow use of manipulatives (weekly as needed), have student repeat and/or paraphrase information (daily as needed), use pictures to support reading passages whenever possible (weekly as needed), altered/modified assignments (periodically as needed), break down assignments into smaller units (periodically as needed), strategies to initiate and sustain attention (daily), encourage student to ask for assistance when needed (daily as needed), advance preparation for schedule changes (weekly as needed), first-then chart, token reward board, or communication board (periodically as needed), picture schedule (weekly as needed), preferential seating (daily as needed), adult support (“the student needs a dedicated 1:1 adult support daily”).
 - The IEP contained goals in the areas of mathematics (counting and cardinality), social/emotional/behavioral, and phonics (letter identification).
5. The student’s least restrictive environment was inside general education for 30 hours and 0 minutes per week, and two hours and 30 minutes outside of general education per week. The IEP stated that the student would receive the following instructional services:
 - Five thirty-minute sessions weekly of specialized instruction/small group or 1:1 support inside the general education classroom to support the student’s “foundational academic needs” and access to the general education curriculum. There is documentation that the student received this instructional service.
 - One thirty-minute session daily of specialized supports and instruction outside the general education classroom to address the “student’s foundational academic skills” and targeted IEP goal areas. There is no documentation that the student received this instructional service.
6. The student received “Needs Development” on her report card for each marking period of the 2022-2023 school year in language arts, mathematics, and social studies. She received a “Needs Development” in every marking period except the fourth marking period in science, when she received a grade of “Progressing.” She also received a “Progressing” grade in library/media, music, physical education, and ESOL. She received a “Consistently Demonstrates” for the fourth marking period in art.

School, February 7, 2023, IEP

7. The IEP team at School met again on February 7, 2023, to conduct the annual review for the student. At this time the student was in the third grade. The student’s IEP reflected that the student was identified as an English Learner with multiple disabilities including Autism and Other

Health Impairment “based on 2021 assessments [REDACTED] May 2022 psychological assessment [REDACTED] informal assessments, classroom observations, IEP progress, and teacher reports.” The IEP reflects that the student “... [displayed] significant deficits in age-expected skill in the areas of social/emotional/behavioral, communication, reading, writing, and mathematics.”

8. The prior written notice from this meeting states that the team determined to conduct a formal communication assessment with an interpreter present to evaluate the student’s articulation, use, and understanding of language at that time. It also stated that the student was not able to complete third-grade level course work, but could write her name without assistance, and was being instructed three times weekly by the ESOL teacher. The prior written notice also reflects that the student “did not meet the goal” in the areas of reading phonics and mathematics, and the comprehension of WH words goal was newly added.
9. The IEP developed from this meeting included the following:
 - Instructional and assessment accommodations: audio amplification, bookmark items 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, text to speech for mathematics, science, and government assessments (text and graphics), small group, separate or alternate location, specified area or seating, frequent breaks, reduce distractions to self and others, calculation device and mathematics tools, monitor test response, and extended time (1.5x).
 - There were no supplementary aids, services, program modifications, and supports provided to the student by the IEP.
 - The IEP contains goals in the areas of reading phonics (letter identification), mathematics (counting and cardinality), and comprehension (WH words).
10. The IEP does not contain the Least Restrictive Environment/placement data. The IEP provides that the student would receive the following instructional services:
 - One thirty-minute session per day with a special educator outside the general education classroom to address her deficits and work toward her goal in mathematics. There is documentation that the student received this instructional requirement.
 - One thirty-minute session per day with a special educator outside the general education classroom to address her deficits and work toward her goals in the areas of reading phonics, and comprehension. There is documentation that the student received this instructional requirement in the area of reading. There is no documentation that the student received this instructional requirement in the area of phonics.
 - Two thirty-minute small group sessions per week inside the general education to address deficits in the area of comprehension. There is documentation that the student received this instructional requirement.
 - Two thirty-minute small group sessions per week inside general education to address deficits in the area of mathematics. There is no documentation that the student received this instructional requirement.
11. On the third progress report, dated March 24, 2023, the student was making sufficient progress to meet all of her goals.

12. The IEP team at [REDACTED] School reconvened on May 16, 2023, to discuss the assessment results. According to the prior written notice, it was determined that the student qualified for speech and language services because the student's oral language composite score was significantly below the average range when compared to same-aged peers in terms of articulation, expressive, and receptive language.

[REDACTED] School, June 1, 2023, IEP

13. The IEP team at [REDACTED] School met again on June 1, 2023, to review and revise the student's IEP. The prior written notice from this meeting reflects that it was determined that the student would have a communication goal in the areas of articulation and functional communication and would receive two thirty-minute sessions of speech and language instruction weekly outside the general education classroom to address her speech and language skills and deficits. According to the student's present level of academic and functional performance, at this time the student was performing below grade level in math, below preschool level in phonological awareness, significantly below grade level in comprehension, and more than two standard deviations below average in speech and language articulation. Additional supplementary aids, services, modifications, and supports, Social/Behavioral support, and Physical/Environmental supports were added to the student's IEP. School Personnel/ Parental Supports added to the student's IEP included daily adult support from a 1:1 dedicated aide in all settings and monthly speech-language pathologist consult.
14. The least restrictive environment for the student was determined to be inside general education for 80% or more, with 27 hours and 45 minutes inside general education per week and six hours outside of general education per week, including speech-language services.
15. On the fourth progress report, dated June 8, 2023, the student was making sufficient progress to meet her IEP goals in the areas of mathematics and reading phonics and had achieved her goal in the area of comprehension (WH words). There was no progress reported regarding her speech and language goals as they were newly added to her IEP.

Instruction during the 2023-2024 school year [REDACTED] School

16. The student enrolled in [REDACTED] School at the beginning of the 2023-2024 school year for fourth grade. The IEP in place at that time was dated June 1, 2023.
17. On September 13, 2023, the IEP team at [REDACTED] School met to review and revise the student's current IEP, and to obtain consent for further assessment. The prior written notice from this meeting reflects that it was reported that the student was demonstrating pre-K level skills in math and literacy. The notice also reflects that the team increased the student's service hours to two hours and thirty minutes per day outside of the general education classroom to include sixty minutes for phonics, forty-five minutes for reading comprehension, and forty-five minutes for math. The team also recommended that a psychological assessment be conducted to determine the student's cognitive functioning, a functional/adaptive assessment to assess functional adaptive skills, a social/emotional/behavioral assessment to assess the student's social/emotional/behavioral skills in an education setting, an educational assessment to determine the student's educational performance level in reading, math, writing, and phonemic awareness, and a classroom observation to determine the student's classroom behavior during instruction. It was stated during the meeting that the student was not capable of completing grade-level work but was able to complete work that was modified for her. The speech therapist reported that the student demonstrated increased knowledge of vocabulary for

more words in Spanish than in English, and the student demonstrated difficulty with speaking and using clear sounds. It was determined that the student would receive speech services two times per week for thirty minutes.

18. The student's amended IEP dated June 1, 2023, required the following services:

- One thirty-minute session per day with a special educator outside the general education classroom to address her deficits and work toward her goal in mathematics. There is documentation that the student is receiving this instructional requirement.
- One thirty-minute session per day with a special educator outside the general education classroom to address her deficits and work toward her goals in the areas of reading phonics, and comprehension. There is documentation that the student is receiving this instructional requirement.
- Two thirty-minute small group sessions per week inside the general education to address deficits in the area of comprehension. There is no documentation that the student is receiving this instructional requirement.
- Two thirty-minute small group sessions per week inside the general education to address deficits in the area of mathematics. There is no documentation that the student is receiving this instructional requirement.

19. On October 22, 2023, a psychological assessment was conducted for the student. The assessment revealed that the student's cognitive ability was within the extremely low to low average range relative to individuals of comparable age. The report stated that the student "exhibited significant deficits in nonverbal comprehension, vocabulary development, non-verbal abstract problem-solving skills, working memory, and processing speed on paper-pencil tasks." However, analysis and synthesis of abstract visual stimuli were determined to be a relative strength for the student. On a nonverbal measure of intellectual functioning, the student performed within the below-average to very poor range, and these deficits were determined to have a possible impact on the student's ability to understand and be successful with certain cognitive tasks. The results also reflected significant delays when the student's level of functioning is compared with same-aged peers, with challenges noted across all domain areas in both the home and school setting. Based upon the report, it was strongly recommended that the student have access to "highly specialized, individualized, small group instruction with frequent opportunities for overlearning of content to support gains in her academic, social, and functional daily living skills."

20. On November 2, 2023, the IEP team reconvened to review the assessment reports. The prior written notice from this meeting states that results from the assessments demonstrated that the student performed within the extremely low to low average range cognitively when compared to same-age peers, and her nonverbal intelligence was determined to be within the below-average to very poor range when compared to same-aged peers. A review of the social/emotional/behavioral assessment results, teacher reports, parent reports, and observations indicated Autism Spectrum Disorder in the specific areas of adult/peer socialization, social/emotional reciprocity, atypical language, stereotypy, behavioral rigidity, sensory sensitivity, and attention. The team determined to update the student's diagnosis from developmental delay to Multiple Disabilities (Autism Intellectual Disability and Other Health Impairment). Further discussion during the meeting reflected that the student was being provided supports in academics and communication in the general education setting, and the student was not demonstrating progress or mastery toward grade-level standards in English Language Arts. The speech-language pathologist reported that the student had made progress toward her speech and language goals this year and stated that with high levels of modeling and support the student can produce sounds. Results from the educational assessment indicated that the student is demonstrating academic skills below kindergarten level. Results from the classroom observation indicated that when the work is too hard for

the student, she avoids the work. Results from the psychological assessment demonstrated significant cognitive deficits in verbal comprehension, vocabulary development, non-verbal abstract problem-solving skills, auditory and visual working memory, and processing speed on paper-pencil tasks. The student showed strength in the analysis and synthesis of abstract visual stimuli but received low ratings on the parent and school adaptive measures survey. Concerns were identified in the area of social/communication, and the areas of unusual behaviors and self-regulation were particularly elevated in the school setting. The team decided that all of the assessment results supported a determination of Autism for the student.

21. The student's November 3, 2023, first marking period report card reflected that the student was failing fourth-grade language arts, mathematics, science, and health education. The student received a "C" in fourth-grade ESOL, and did not receive a grade in fourth-grade social studies. The student's progress report dated November 3, 2023, indicated that she was making sufficient progress on her goals in mathematics, articulation, and functional communication.
22. On November 7, 2023, the IEP team met to conclude the assessment results discussion. The prior written notice from this meeting states that based on the assessment findings, the student met the eligibility criteria to participate in the alternate assessments and alternate academic achievement standards. It was shared that the student had scored in the first percentile of the Fall MAP since Kindergarten and has not demonstrated growth in reading or math in five years. The prior written notice states that the team reviewed all components of the Alternative Assessment Checklist together.
23. A placement meeting with the parent to review the student's IEP and discuss a new placement was scheduled for December 11, 2023.
24. There is documentation that the student missed ten sessions of speech-language services due to student absences or school closures. (9/4/23, 9/15/23, 9/25/23, 10/16/23, 10/20/23, 11/13/23, 11/20/23, 12/18/23).
25. There is no documentation that the student received the dedicated 1:1 support as required by her May 13, 2022, and June 1, 2023, IEPs.

CONCLUSIONS:

Allegation #1: PROVISION OF SPECIAL EDUCATION INSTRUCTION

As soon as possible following the development of the IEP, special education, and related services should be made available to the child in accordance with the child's IEP. (34 CFR §§300.323)

Based on the Findings of Facts #5, #10, and #18 MSDE finds the BCPS has not ensured that the student has been provided with special education instruction required by the Individualized Education Program (IEP) since November 2022, in accordance with 34 CFR §§300.101 and 323. Therefore, this office finds that a violation occurred with respect to the allegation.

Allegation #3: DEVELOPMENT AND IMPLEMENTATION OF AN IEP THAT ADDRESSES THE STUDENT'S SOCIAL, EMOTIONAL, BEHAVIORAL, COMMUNICATION, AND ACADEMIC NEEDS

In developing each child's IEP, the IEP Team must consider: the strengths of the child; the 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. In the case of a child with limited English proficiency, the IEP team must consider the language needs of the child as those needs relate to the child's IEP. (34 CFR §§300.324)

While the IEP teams from both [REDACTED] School and [REDACTED] School thoroughly considered the student's needs and developed IEPs to address some of those needs, there is no documentation that foundational needs were addressed. For example, the student's first IEP team knew the student was unable to respond to WH questions, yet there was no comprehension goal. Nor did the student receive all of the instructional services that were required by those IEPs. The student's February 7, 2023, IEP, did not provide for any supplementary aids, services, program modifications and supports, or LRE, or placement decision. Despite her documented communication issues, the IEP team did not conduct a speech-language assessment for the student until February 2023. Additionally, while the team did increase the student's specialized instruction and related services hours inside and outside of the general education setting at the November 7, 2023, IEP meeting the team determined that the student is eligible for alternate assessments and/or alternate academic achievement standards without having previously ensured that the student received all of the required supports that have been provided by her IEPs (i.e. 1:1 dedicated adult support). Moreover, the team made this determination without considering that the student was not provided with speech-language services until June 1, 2023, effective in August 2023, only three months before the alternate framework decision was made. Finally, the IEP team determined that the student was eligible to participate in the alternate framework without data reflecting that she has a significant cognitive disability that would suggest that she is in the most impacted 1% of the population. Rather, the student clearly is impacted by difficulty with language acquisition, possibly high mobility, and the fact that she did not receive the services required by her IEP.

Based on the Finding of Facts #8, #9, #18, #24, and #25, MSDE finds that the BCPS has not developed and implemented an Individualized Education Program (IEP) that addresses the student's identified social, emotional, behavioral, communication, and academic needs since November 2022, in accordance with 34 CFR §§300.101 and .324. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #2: PARENT PARTICIPATION IN IEP MEETINGS

[REDACTED] School IEP Meetings

26. The prior written notices from the February 7, 2023, May 16, 2023, and June 1, 2023, IEP meetings for the student were translated into Spanish to allow the parent to fully participate in the meeting. The February 7, 2023, and May 16, 2023, IEP meetings were interpreted in real time using the language line services. The June 1, 2023, IEP meeting team notes were translated using Google Translate "in order to provide immediate feedback."

[REDACTED] School IEP Meetings

27. The prior written notice from the September 13, 2023, IEP meeting reflects that the parent attended the meeting in person, and she was offered a copy of her procedural safeguard notice/parental rights and

the student's IEP in Spanish. There is no documentation that the meeting was interpreted in Spanish for the parent in real-time, nor is there documentation that the prior written notice from the meeting was provided in Spanish (which is required unless it is not feasible to do so).

28. The prior written notice from the November 2, 2023, IEP meeting reflects that the parent attended the meeting in person and received interpretation services in real-time to allow the parent to fully participate in the meeting. There is no documentation that the parent received a translated copy of the prior written notice from this meeting (which is required unless it is not feasible to do so).
29. The prior written notice from the November 7, 2023, IEP meeting reflects that the parent attended the meeting in person and received interpretation services in real-time to allow the parent to fully participate in the meeting. There is no documentation that the parent received a translated copy of the prior written notice from this meeting (which is required unless it is not feasible to do so).

CONCLUSIONS:

Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. (34 CFR §300.322 and COMAR 13A.05.01.07).

Except for the September 13, 2023, IEP meeting, the parent received interpretation services during the IEP meetings. However, there is no documentation that the parent received a translated copy of the prior written notice from the September 13, 2023, November 2, 2023, and November 7, 2023, IEP meetings, thereby ensuring that the parent had complete access to, and understanding of, the actions taken and decisions made during the IEP meetings. Translation of prior written notice was provided at [REDACTED] School, reflecting that it was feasible for BCPS to translate that document into the parent's native language. Therefore, there was no basis for the [REDACTED] School not to translate the prior written notice documents for the parent to fully understand the decisions made by the IEP team.

Based on the Findings of Facts #27 to #29, MSDE finds that the BCPS did not consider possible language barriers to ensure that the student's parent has understood the proceedings and outcome of IEP team meetings since November 2022, in accordance with 34 CFR §300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred with respect to the allegation.

ALLEGATION #4: ADDRESSING THE LACK OF PROGRESS TOWARD IEP GOALS

30. The student's IEP progress report dated January 17, 2023, states the student was making sufficient progress toward these goals. There was no progress noted in comprehension as this goal was newly introduced, and the student was marked as having achieved her social/emotional/behavioral goal. At the February 7, 2023, IEP meeting the team "increased [services] to provide additional assistance" by adding supplementary aids, services, program modifications, and supports, instructional and testing accommodations, and proposing that a formal communication assessment be conducted for the student with an interpreter "...to determine [the student's] articulation and use and understanding of language."
31. The student's IEP progress report dated March 24, 2023, reflects that the student was making sufficient progress to meet her goals in the areas of reading phonics, mathematics, and comprehension.

32. During the May 16, 2023, IEP meeting, it was determined that the student qualified for speech-language services. The team met again on June 1, 2023, and amended the student's IEP to include two thirty-minute speech and language sessions weekly with the speech-language pathologist outside of the general education setting.
33. The June 8, 2023, progress report reflects that the student achieved her goal in comprehension and continued to make sufficient progress in the areas of mathematics and reading phonics. Speech and language services had not been introduced at that time.
34. At the September 13, 2023, IEP meeting, the team determined to increase the student's service hours from five hours weekly outside of the general education classroom to seven hours and thirty minutes weekly outside of the general education classroom. The student continued to receive two hours of specialized instruction inside of the general education classroom.
35. The student's IEP progress report dated November 3, 2023, reflects that the student was making sufficient progress to meet her goals in the areas of reading phonics, mathematics, articulation, and functional communication.

CONCLUSION:

Each public agency must ensure that the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. The team must also revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals; the results of any reevaluation conducted; information about the child provided to, or by, the parents; and the child's anticipated needs. (34 CFR §300.324)

According to the progress reports the student continued to make sufficient progress toward her IEP goals.

Based on the Findings of Facts #30 to #35, MSDE finds that the BCPS has ensured that the IEP team reviewed and revised, as appropriate, the student's IEP to address the lack of expected progress toward achieving her IEP goals, since November 2022, in accordance with 34 CFR §§300.101 and 324. Therefore, this office finds that a violation did not occur with respect to the allegation.

CORRECTIVE ACTIONS/TIMELINES:

The IDEA requires that State complaint procedures include 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

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

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 that no later than April 1, 2024, the BCPS convene an IEP team meeting to determine the amount of compensatory services or other remedy necessary to address the district's failure to provide the student with the specialized instruction and related services as required by the student's IEPs since November 2022, including the failure to provide 1:1 instructional assistance during the 2022-2023 and 2023-2024 school years. Additionally, by that same date, the IEP team at [REDACTED] School should convene to reconsider the determination of the student's eligibility for the alternate assessment prior to ensuring that the student has been provided with consistent speech-language services, 1:1 instructional assistance, and the specialized instruction required by her IEP.

PWN for the decisions made at this meeting must be provided to the parent in her native language. BCPS must also provide PWN for the September 13, 2023, November 2, 2023, and November 7, 2023, IEP team meetings in the parent's native language by March 1, 2024.

School-Based

MSDE requires that no later than June 1, 2024, the BCPS provide professional development to the IEP team [REDACTED] School regarding how to ensure that parents are afforded the opportunity to fully participate in IEP team meetings by having meetings interpreted in real-time, as well as ensuring that translated prior written notices from IEP meetings with parents for whom English is a second language are provided within a reasonable time after the meeting. By that same date, the BCPS must also provide professional development on determining eligibility for participation in the Alternate Framework.

If the regulatory requirements are not being implemented, actions to be taken in order to ensure that the violation does not recur must be identified, and a follow-up report to document correction must be submitted within ninety (90) days of the initial date of a determination of non-compliance. Upon receipt of this report, MSDE will re-verify the data to ensure continued compliance with the regulatory requirements.

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.

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.

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,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/ebh

c: Dr. Myriam Rogers, Superintendent, BCPS
Dr. Jason Miller, Coordinator of Compliance, Department of Special Education, BCPS
Ms. Charlene Harris, Supervisor of Compliance, Department of Special Education, BCPS
Mr. Brian Williams, Principal, [REDACTED] School
Ms. Amanda McBride, Principal, [REDACTED] School
Ms. Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Ms. Elizabeth B. Hendricks, Complaint Investigator, MSDE
Ms. Nicol Elliot, Section Chief, Monitoring and Accountability, MSDE
Ms. Paige Bradford, Section Chief, Specialized Instruction, MSDE