


June 10, 2025




Ms. Denise T. Mabry
Director of Compliance and Due Process
Baltimore City Public Schools
200 E. North Avenue, Room 204 B
Baltimore, Maryland 21202

RE: 
Reference: #25-236

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Special Education, has completed the investigation of the complaint regarding special education services for the above-referenced student. This correspondence is the report on the final results of the investigation.

ALLEGATIONS:

On January 27, 2025, the MSDE received a complaint from , hereafter “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Baltimore City Public School (BCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the student.

On February 7, 2025, you filed a due process complaint with the Maryland Office of Administrative Hearings (OAH) regarding some of the same issues you raised in your State complaint. In accordance with the IDEA, MSDE held the State complaint in abeyance until the conclusion of the due process hearing (34 CFR § 300.152)

On April 11, 2025, you entered into a special education resolution agreement with BCPS. However, the allegations were not the same issues raised in your state complaint. Therefore, MSDE investigated the following allegations:

1. The BCPS did not follow proper procedures when conducting a reevaluation of the student since January 2024, in accordance with 34 CFR §§ 300.303-.306 and COMAR 13A.05.01.06.
2. The BCPS did not ensure that the IEP team addressed parental concerns regarding the completion of a psychoeducational evaluation during the reevaluation process since January 2024, in accordance with 34 CFR § 300.324.

3. The BCPS did not follow proper procedures in making the determination that the student would participate in the alternative Maryland School Assessment Program and would pursue a Certificate of Program Completion instead of a high school diploma since January 2024, in accordance with 34 CFR § 300.320 and COMAR 13A.03.02.09.
4. The BCPS did not follow proper procedures when determining the student's educational placement since January 2024, in accordance with 34 CFR §§ 300.114 -.116.

BACKGROUND:

The student is 15 years old and is identified as a student with an Intellectual Disability under the IDEA. The student currently attends [REDACTED] School. He has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1 and #2

REEVALUATION AND ADDRESS PARENT CONCERN

FINDINGS OF FACT:

1. The IEP in effect January 2024 was developed on January 11, 2024. The IEP reflects the student's most recent evaluation date of January 27, 2023, and a projected reevaluation date of January 26, 2026.
2. On January 31, 2025, the IEP team convened per the request of the complainant to review and revise the current IEP, discuss parental concerns (including occupational therapy and social-emotional therapy), consider postsecondary goals and services, consider Extended School Year (ESY) services, and consider existing information to determine the need for additional data.
3. During the IEP meeting, the complainant provided the IEP team with private occupational therapy and psychological assessments completed in April 2023. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team determined it would review the assessments at the next IEP meeting scheduled for February 18, 2025. The PWN also states that the IEP team acknowledged the assessments had been provided to the previous school and that it constitutes a FAPE violation that they were not discussed or reviewed when initially submitted to the IEP team.
4. On February 18, 2025, the IEP team reconvened to review the private assessments provided to BCPS on January 31, 2025, review and revise the IEP as appropriate, consider ESY services, and consider postsecondary goals and transition services. During the meeting, the Occupational Therapist reviewed information in the private Neuropsychological Evaluation report, noting a 2018 diagnosis of Sensory Processing Disorder and some fine motor concerns. While the report recommended OT services both in-school and outpatient, teachers reported no current issues with handwriting or fine motor skills affecting instruction. Therefore, in-school direct OT services were not recommended.

The BCPS school psychologist reviewed the private psychological assessment with the IEP team. The PWN reflects that the student's adaptive skill ratings were found to be within the below-average range, and his cognitive performance was significantly below average. Deficits in executive functioning skills were also noted. The report included diagnoses of Intellectual Developmental Disorder and Attention-Deficit/Hyperactivity Disorder (ADHD), Predominantly Inattentive Presentation.

5. There is no documentation that the IEP team updated the student's reevaluation date based on this meeting.
6. There is no documentation that the complainant expressed concerns regarding the testing reviewed or requested an updated psychological assessment.

CONCLUSIONS:

Reevaluation

In this case, the IEP team reviewed a private assessment provided by the complainant. The meetings held on January 31, 2025, and February 18, 2025, were not reevaluation meetings, as the student's reevaluation is not due until January 26, 2026.

Based on Findings of Fact #1 through #5, MSDE finds that the BCPS was not required to follow the procedures for conducting a reevaluation since January 2024 as the IEP team did not conduct a reevaluation of the student, in accordance with 34 CFR §§ 300.303–300.306 and COMAR 13A.05.01.06. Therefore, MSDE does not find a violation.

Parent Concerns

Based on Finding of Fact #6, MSDE finds that there is no documentation that the parent requested updated assessments; therefore, BCPS was not required to address the parent's concerns regarding the completion of a psychoeducational evaluation, since January 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

ALLEGATIONS #3 and #4

DETERMINING STUDENT PARTICIPATION IN THE ALTERNATE MARYLAND SCHOOL ASSESSMENT PROGRAM AND DETERMINING THE LEAST RESTRICTIVE ENVIRONMENT

FINDINGS OF FACT:

7. On December 6, 2024, the IEP team convened for the student's annual review. During the meeting, the IEP team discussed the annual consideration of whether the student would continue to participate in alternate state assessments, participate in alternate academic achievement standards (Alternate Framework), and work toward a Maryland High School Certificate of Program Completion.

The PWN reflects that the IEP team proposed that the student continue to participate in the Alternate Framework and exit high school with a Maryland Certificate of Program Completion after four years of high school.

Based on the discussion and data used to complete the Alternate Appendix A: Participation Criteria and Checklist form, the IEP team determined that the student met all criteria and would participate in the Alternate Framework and pursue a Maryland Certificate of Program Completion.

The complainant did not express written agreement or disagreement with the IEP team's decision for the student to continue participate in the Alternate Framework, leading to a Maryland Certificate of Completion. She was given the Alternate Appendix A form on December 6, 2024, to provide consent, and told that she must return it by January 8, 2025. If no response is received by the deadline, the IEP team would proceed with the proposed decision. If the complainant submitted a signed disagreement, the final decision will be updated in the active IEP.

8. There is documentation that the IEP team did not follow the proper procedure when completing the Alternate Appendix A: Participation Criteria and Checklist form.

The data that was used to make the determination contradicted the information on the Appendix A that the IEP team used to document the students' abilities. The BCPS Psychological assessments used during the IEP meeting dated December 6, 2022, reflects the "student's overall adaptive skills are observed to be within the below average to average range, both at school and home" and "[Student] demonstrates overall cognitive abilities well below age level expectations, with better development adaptive functioning skills that are slightly below to withing age level expectations. Therefore, [Student] does not meet the criteria for a condition considered an intellectual disability under the American Association on Intellectual and Developmental Disabilities (AAIDD)." The Appendix A states the opposite with regard to the student's communication, adaptive, and functional performance.

The Alternate Appendix A: Participation Criteria and Checklist form also mirrored the form completed by the previous IEP team while the student was in middle school.

9. The IEP developed on December 6, 2024, reflects that the student required:
 - 22 hours and 30 minutes weekly of special education services outside of the general education setting.
 - Five hours weekly of special education services inside the general education setting.
 - 30 minutes a week of speech-language services outside of the general education setting.
10. The Least Restrictive Environment (LRE) reflects that the IEP team considered the following options: To ensure that the student's education includes exposure and opportunities for interactions with non-disabled peers to the greatest extent possible, the IEP team considered placement options from the least to most restrictive, including all of the student's services provided inside of the general education environment, all services provided in a special education class environment, or a combination of these settings.

The IEP reflects that the IEP team determined the student required: A combination of settings, both inside and outside of the general education environment, would be appropriate for the student and ensure that the needs resulting from the nature and severity of the disability are met and that there are opportunities for interaction and instruction with nondisabled peers. The student will access academic course instruction (English, Math, Science, and Social Studies) outside of the general education environment and access non-academic course instruction (physical education, art, music, electives) inside of the general education environment. The student will participate in the Baltimore City Schools' Citywide Low-Incidence Disability Program.

The student requires intensive, repetitive, and individualized instruction with substantial support for the student to achieve measurable gains on his IEP and in the grade and age-appropriate curriculum. The grade-level curriculum and content materials are significantly adapted and modified for the student, providing access, participation, and progress in the general education curriculum. Structured teaching is implemented in the classroom with fidelity. This can best be met in the Baltimore City Schools' Citywide Low-Incidence Disability Program.

11. There is documentation that on January 8, 2025, the complainant checked "yes" to give consent for the student to participate in instruction aligned to alternate achievement standards and "yes" to the student participating in the alternate assessment aligned to the alternate academic achievement standards. However, at the bottom of the form, the complainant indicated she wanted the student to earn a diploma.
12. On February 18, 2025, at the complainant's request; the IEP team reconvened to continue the IEP meeting convened on January 31, 2025. The PWN reflects that the IEP team recommended that the student continue receiving instruction based on the Alternative Achievement Standards and work toward earning a Maryland Certificate of Completion, rather than a traditional diploma, during his time in high school. The team also discussed the student's long-term planning and determined that he may benefit from participation in age-appropriate transition programs following his four years in high school.

The PWN reflects that the complainant requested another IEP review and emphasized her desire for the student to earn a diploma. Although she signed the form on January 8, indicating both agreement with the certificate and a handwritten note requesting a diploma, the conflicting information created confusion. The team explained that because the form indicated dual intent and a follow-up meeting was scheduled for January 31, 2025, to discuss graduation outcomes, the current IEP draft continued to reflect the certificate decision made at the December 6, 2024, IEP meeting.

During the IEP meeting, the paternal parent expressed that he wanted the student to work toward a high school diploma. The District Student Success Liaison explained that this parental choice would require the student to transition from instruction and assessments aligned with the Certificate of Program Completion to those aligned with diploma requirements, including earning 22 credits, completing 75 service-learning hours, and passing all required state assessments. The student's current classes follow the Alternate Framework and would need to be changed to a setting offering credit bearing classes and general state assessments. The team emphasized that the instruction and assessment is more rigorous, and includes no modified assessments. While the IEP team recommended the Certificate of Program Completion, the final decision rests with the family. The paternal parent requested time to review the consent form with the complainant and planned to return the following day to speak with the guidance counselor before making a final decision. The team confirmed that, aside from the pending consent, the IEP was complete.

13. The IEP developed on January 31, 2025, reflects that the student requires:
 - 22 hours and 30 minutes weekly of special education services outside of the general education setting.
 - Five hours weekly of special education services inside the general education setting.
 - 30 minutes a week of speech-language services outside of the general education setting.

14. The LRE states that the IEP team determined: A combination of settings both inside and outside of the general education environment would be appropriate for the student and ensure that the needs resulting from the nature and severity of the disability are met and that there are opportunities for interaction and instruction with nondisabled peers. The student will access academic course instruction (English, Math, Science, and Social Studies) outside of the general education environment and access non-academic course instruction (physical education, art, music, electives) inside of the general education environment.
15. On February 28, 2025, the complainant returned to the school to complete and sign the Alternate Appendix A: Participation and Criteria Checklist. She declined consent for the student to participate in instruction and assessments aligned with alternate academic achievement standards. A signed copy was provided to her, and the student's schedule was adjusted to receive instruction based on Common Core Curriculum Standards outside of the Low Incidence classroom.
16. On March 13, 2025, BCPS generated a PWN that reflects that the complainant signed the Alternate Appendix A: Participation Criteria Checklist. The student will:
 - Exit with: Certificate of Program Completion prior to the end of the school year when the student turns 21.
 - Not participate in the Maryland Comprehensive Assessment Program (MCAP) Assessments for high school.
 - The complainant consent for the student's participation the Alternate Framework in assessed grade in English Language Arts (Grades 3-8, 11), Mathematics (Grades 3-8, 11), Science (Grades 5, 8, 11 only) updated to YES - Date of written consent: 03/13/2025.
17. The student's current IEP reflects that the student requires the same number of service hours and that the LRE remains unchanged.
18. The IEP team is scheduled to meet on June 6, 2025, to review existing data, determine if additional assistance is needed, and review and revise the IEP per the complainant's request.

CONCLUSIONS:

Determining student participation in the alternate Maryland school assessment

Parents must provide written consent for their child to participate in the Maryland Alternate Assessments and/or instruction aligned with alternate academic achievement standards (AAAS) (Md. Code Ann., Educ. § 8-405(f)). The IEP Team must affirm that the parent understands the decision-making process, including that the decision is reviewed annually, and the implications of the decision, namely that if the student continues with instruction and assessment according to the Alternate Framework, they will be unable to complete the requirements for a Maryland High School Diploma. Guidance for IEP Teams Working with Students with the Most Significant Cognitive Disabilities, MSDE December 2022.

In this case, the IEP team used data from a BCPS assessment dated December 2022, which identified the student as having adaptive skills in the below-average to average range. The team also used data indicating that the student did not qualify as a student with an intellectual disability under AAIDD criteria, relied on data from the previous school year, and did not incorporate information reflecting the student's current abilities.

Based on Findings of Fact #4, #7 and #8, MSDE finds that the BCPS did not follow proper procedures in making the determination that the student would participate in the alternative Maryland School Assessment Program and would pursue a Certificate of Program Completion instead of a high school diploma since January 2024, in accordance with 34 CFR § 300.320 and COMAR 13A.03.02.09. Therefore, MSDE finds a violation.

LRE AND PLACEMENT

The IEP team placed the student in a Low Incidence classroom, where the student was not exposed to the general curriculum during the time period when they erroneously determined the student to be eligible to participate in the Alternate Framework. However, during the time period in which the parent did not provide consent, the IEP team did determine that the student should be placed in supportive, smaller classes, where he had more opportunities for intensive staff assistance and attention.

Based on Findings of Fact #13, #14, #16, and #17, MSDE finds that the BCPS did not follow proper procedures when determining the student's educational placement since January 2024, in accordance with 34 CFR §§ 300.114 -.116. Therefore, MSDE does find a violation in terms of placement, but no violation in terms of LRE.

CORRECTIVE ACTIONS and 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 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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action². Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

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 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 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.

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.

Student Specific

MSDE requires the BCPS to provide documentation, by August 15, 2025, that the IEP team has taken the following action:

- a. Convened an IEP team meeting and determined the assessments required to determine the student's present level of performance. The IEP team should consider completing nonverbal cognitive assessments as well as communication assessments;
- b. Once assessments are completed within the required timeline, the IEP team should review the results, determine eligibility, and identify the student's disability classification. If deemed appropriate, the IEP team should complete the Alternate Appendix A: Participation Criteria and Checklist using current data and IEP team input. The IEP should then be updated with the recent information, and the IEP team should determine whether the current IEP goals remain appropriate based on the updated data. If not, the goals should be revised accordingly;
- c. Determined the compensatory services needed to remediate the violations identified in this investigation; and
- d. Developed a plan for the implementation of the services within one year of the date of this Letter of Findings.

The BCPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

School-Based

MSDE requires BCPS to provide documentation by August 30, 2025, outlining the steps taken to ensure the violation does not recur at [REDACTED] School. BCPS must demonstrate that staff are properly implementing the requirements related to determining a student's participation in the Alternate Framework and have an understanding of the decision-making surrounding a diploma and a Certification of Completion. These steps must include staff development and the creation of tools to document services and monitor compliance.

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 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 why the documentation was not made available during the investigation. Requests for reconsideration should be sent directly to Tracy Givens, Section Chief, Dispute Resolution at Tracy.Givens@maryland.gov. 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 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 Special Education Services

ALH/sj

c: Dr. Sonja Santelises, Superintendent, BCPS
Laurie-Lynn Sutton-Platt, Executive Director, BCPS
Denise Mabry, Director of Special Education Compliance & Due Process, BCPS
Christa McGonigal, Educational Specialist, BCPS
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Alison Barmat, Director, Family Support and Dispute Resolution, MSDE
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