

April 7, 2025

[REDACTED]

Dr. 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: #25-256

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services 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.

**ALLEGATION:**

On February 11, 2025, MSDE received a complaint from [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) concerning the above-referenced student.

MSDE investigated the allegation that the BCPS has not ensured that the student is receiving private duty nursing services as required by the Individualized Education Program (IEP) since February 2024, in accordance with 34 CFR §§ 300.101 and .323.

**BACKGROUND:**

The student is 17 years old and is identified as a student with multiple disabilities (MD) under the IDEA. The student attends [REDACTED] School ([REDACTED]) and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACT:**

1. The IEP in effect in February 2024 was developed on December 14, 2023. The IEP reflects the student’s primary disability as MD. The supplementary aids, services, program modifications and supports required by the IEP include the following:
  - Daily:
  - Adult support

- Periodically:
  - School health consult
- “[The student] requires private duty nursing (PDN), provided for by Model Waiver Program, on the school bus and during the school day to meet his health needs for assessment and management of his respiratory status. The school nurse will assist the PDN as needed and collaborate with the PDN to develop a care plan and maintain copies of all physician orders and treatments administered in school.”
- “[The student] has a physician order for private duty nursing in school and on the school bus, as well as physician orders for all treatments and medications to be given at school and on the school bus by the PDN.”

The IEP did not require the BCPS to provide the private duty nursing services.

2. On June 3, 2024, the IEP team reconvened to review the student’s IEP. The PWN generated after the meeting reflects the IEP team “discussed the revisions that would need to be made to the IEP based on the student’s health needs.” It was reported that the complainant “received notification from Division of Nursing Services that funding for the private duty nurse who currently supports [the student would] end July 1, 2024 [and] the IEP team reviewed the IEP and documented how [the student’s] health needs would be met by the school nurse following the end of the private duty nurse..... “The school nurse will provide training to classroom staff and develop a classroom care plan that addresses [the student’s] [REDACTED], including symptoms to monitor and how to respond. The school nurse will administer medically ordered medication for his asthma.....”[The student] “requires additional adult support at school for getting on and off the bus, support with toileting, and monitoring/cueing him at lunch to eat slowly and chew his food before swallowing. [The student] requires an adult to assist him to localize pain and inform nursing response to any injuries.”

The IEP team decided to add more detail “to describe the additional adult support that [the student] requires based on medical, attentional, and academic needs.” The BCPS recommended that the complainant contact the Maryland Department of Health Division of Nursing Services to request an extension of the student’s private duty nursing services through the July extended school year (ESY) session. The complainant shared that she had already submitted an appeal to that effect. The complainant expressed her concern about the school bus, and the IEP team decided to add more detail “to the Least Restrictive Environment [LRE] section [of the IEP] to document [the student’s] specific needs while on the school bus due to his asthma and health issues.” It was reported that the student “does not require assistance boarding or exiting the bus [but] supervision and support prior to getting on the school bus or after getting off the bus would not be part of the IEP. The special educator shared that the student “has difficulty expressing his emotions related to pain or accidents.”

3. The amended IEP reflects the student’s primary disability as MD. The supplementary aids, services, program modifications and supports required by the IEP included the following:
  - Daily:
    - Adult support
  - Quarterly:
    - School health consult:
    - “The school nurse will provide training to classroom staff and develop a classroom care plan that addresses [the student’s] [REDACTED], including symptoms to monitor and how to respond. The school nurse will administer medically ordered medication for his asthma.”

- “[The student] requires additional adult support at school for getting on and off the bus, navigating the building, support with toileting, and monitoring/cueing him at lunch to eat slowly and chew his food before swallowing. He requires an adult to assist him to localize pain and inform nursing response to any injuries. [The student] is easily distracted and relies on assistance from an additional adult for focus, prompting and redirection when completing academic tasks.”
4. There is documentation that on September 17, 2024, the BCPS conducted a “BCPS Nursing Assessment” for the student completed by the school nurse. The document reflects the reasons for the assessment included “Identified Health,” “Parent Concern,” and “Teacher Concern.” The sources of information included “Parent” and “Review of Records.” The document includes a statement of the student’s health problems, a “History of health problem and review of relevant systems,” information for the student’s health care providers, hospitalizations related to the condition, current medications and treatments, other information including social, emotional, attendance, and economic information, and recommendations for the school. The recommendations include “Follow BCPS protocols/procedures for asthma,” “Classroom Health Plan for asthma,” and “Bus Plan for Asthma.”

## **DISCUSSION AND CONCLUSION:**

### **PROVISION OF PRIVATE DUTY NURSING SERVICES**

The public agency is required to ensure that the student is provided with the special education and related services required by the IEP (34 CFR §§ 300.101 and .323). To ensure implementation of the IEP, the IEP must indicate the commitment of resources and services in a manner that is clear to all persons involved in its development and implementation. An IEP may state that the services (accommodations, instruction, related services) are to be provided under specific circumstances to meet the student’s needs (Maryland State Department of Education. (2024). *Maryland Assessment, Accessibility, and Accommodations Manual*.).

In this case, the IEP reflects that the student’s private duty nursing services would be provided by the “Model Waiver Program” with assistance from the school nurse “as needed.” There is documentation that the BCPS conducted a nursing assessment for the student, which included recommendations to follow the necessary plans, protocols, and procedures to address the student’s health needs, including his asthma. The student’s IEP did not indicate that the BCPS was providing the services of a PDN for the student to receive a free appropriate public education (FAPE). Rather, they agreed to include health consultation with a private entity contracted with the complainant during the school day. When that contract ended, BCPS conducted a nursing assessment to determine whether a PDN was needed in order for the student to receive a FAPE, or whether the tasks completed by the PDN could be delegated to other staff members. The nursing assessment determined that the student did not require direct services from a PDN, and the school staff could be trained to complete the required tasks. Health and safety plans were developed, as appropriate.

Based on Findings of Fact #1 to #4, MSDE finds that BCPS was not required to ensure that the student received the private duty nursing services since February 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds no violation.

### **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 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. Request for reconsideration should be submitted to Tracy Givens, Section Chief, Dispute Resolution, at [Tracy.Givens@maryland.gov](mailto: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 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  
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