

April 24, 2025

Mr. Levi Bradford
Public Justice Center
201 North Charles Street
Baltimore, Maryland 21201

Ms. Allison Myers
Executive Director
Department of Special Education
Jefferson Building, 4th Floor
105 W. Chesapeake Ave
Towson, Maryland 21204

RE: [REDACTED]
Reference: #25-287

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.

ALLEGATIONS:

On February 28, 2025, MSDE received a complaint from Mr. Levi Bradford, 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 student.

MSDE investigated the following allegations:

1. The BCPS has not ensured that the Individualized Education Program (IEP) team addressed the results of evaluations¹ obtained at private expense provided to them by the parent in April 2024, and October 2024, in accordance with 34 CFR §§ 300.324 and .305.
2. The BCPS has not developed an IEP that addresses the student’s identified behavior needs, since December 3, 2024, in accordance with 34 CFR § 300.324.
3. The BCPS has not ensured that the IEP contains appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance (PLAAFP) since January 2025, in accordance with 34 CFR § 300.320.

¹ During the course of the investigation, it was determined that the referenced evaluations were private medical letters which are not evaluations.

4. The BCPS has not followed proper procedures when disciplinarily removing the student from school on October 29, 2024, November 7, 2024, and January 15, 2025, in accordance with 34 CFR §§ 300.530, COMAR 13A.08.02, COMAR 13A.08.03, and COMAR 13A.08.01.11.
5. The BCPS did not provide the parent in their native language the prior written notice (PWN) of the IEP team's decisions and consent to evaluate form for an FBA since February 2024, in accordance with 34 CFR §§ 300.300 and .503 and COMAR 13A.05.01.12.

BACKGROUND:

The student is 18 years old and is identified as a student with autism under the IDEA. She attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

ALLEGATIONS #1, #2, #3, AND #5

ADDRESSING PRIVATE MEDICAL LETTERS, IEP DEVELOPMENT, AN IEP THAT CONTAINS APPROPRIATE GOALS AND PRESENT LEVELS, AND PROVISION OF PWN AND CONSENT TO EVALUATE IN THE PARENT'S NATIVE LANGUAGE

FINDINGS OF FACT:

1. The April 10, 2024, [REDACTED] medical letter reflects that recommendations were made by the student's private psychiatrist and pediatric social worker.

There is no documentation that the [REDACTED] medical letter was provided to the BCPS or that the IEP team considered the medical letter.

2. The student's IEP in effect in December 2024, was developed on January 4, 2024. The IEP reflects the student's primary disability as autism with reading comprehension, written language expression, math calculation, employment, education/training, as areas impacted by the disability.

The IEP included supplementary aids, services, and accommodations to aid with behavior and self-advocacy:

- Small group
- Separate or alternate location
- Frequent breaks
- Reduced distraction to self
- Extended time (1.5x)
- Social-behavior support: daily as needed: encourage student to ask for assistance when needed
- School personnel: daily as needed: adult support

The IEP required 20 hours weekly of special education instruction outside of the general education classroom. The student would receive instructional services outside the general education environment in the [REDACTED] ([REDACTED]) Program.

3. On December 3, 2024, a "Notice and Consent for Assessment" form was generated. The form reflects consent to conduct a Functional Behavior Assessment (FBA) being granted by the parent on December 20, 2024.

In its written response, the BCPS acknowledges that they did not provide the parent with the translated Notice and Consent for Assessment.

4. The December 23, 2024, [REDACTED] ([REDACTED]) medical letter reflects recommendations made by the private psychiatrist.

There is no documentation that the [REDACTED] medical letter was provided to the BCPS or that the IEP team considered the [REDACTED] medical letter.

5. The student's IEP developed on January 14, 2025, reflects the student's primary disability as autism with reading comprehension, written language expression, math calculation, employment, education/training, and behavioral self-advocacy as areas impacted by the disability.

The PLAAFP reflects the following:

- Reading comprehension: classroom assessments, Brigance informal assessment form B, teacher observation, Unique Learning Systems Benchmark data are reflected. In a decodable first grade text, "[the student] can answer comprehension questions about key details in 4 of 5 opportunities... [the student] answered all questions that involved literal recall but missed the inferential question... She was able to answer literal recall and the inferential questions."
 - o Level of performance: "G.E. [grade equivalence] mid second grade"
- Written language expression: class work, Brigance informal assessment, teacher observation, Unique Learning Systems Benchmark data are reflected. "When given a sentence, [the student] can consistently choose the correct adjective or pronoun to use in 6 of 6 opportunities. [The student] can select the correct compound interrogative or conjunction to use within a sentence in 3 of 4 items. [The student] is not yet consistently able to choose the correct verb tense or preposition to use within a sentence... [the student] struggles to use the correct verb tense when completing a sentence... [the student] does not consistently use correct sentence structure when adding details and conjunctions to longer sentences When given an explanatory writing prompt about what they do before school, [the student] demonstrates proficiency by writing a short paragraph, consistently including an introduction to the topic, facts or steps, and a conclusion, using beginning conventions (e.g., capitalization and punctuation) and a variety of commonly used nouns and verbs... [the student] at times has trouble using the correct tense for verbs using the present participle (-ing ending) when she should use past tense or dropping an article such as the letter a. However, when taking her time or on preferred writing topics, her own interests or experiences, [the student] can write and self-correct her verb tense and make other writing revisions such as adding punctuation. Moreover, when given a graphic organizer [the student] can write a paragraph with a topic sentence and conclusion. However, she often neglects to use punctuation appropriately and capitalizes inconsistently."
 - o Level of performance: "G.E. mid second grade"
- Math calculation: Brigance informal assessment, teacher observation, Unique Learning Systems Benchmark data are reflected. "[The student] struggled to carry over numbers in two-digit addition problems without a prompt or teacher reminder... When presented with a multiplication story problem with factors to 5, [the student] can consistently represent and solve

- the problem in 3/3 opportunities. [The student] demonstrates strength in representing and solving division story problems with dividends up to 20, scoring 3/3. When given manipulatives, [the student] can consistently solve multiplication problems with factors to 5 with a score of 3/3. [The student] can solve division problems with dividends up to 20 when given manipulatives with a score of 3/3. [The student] does not reliably choose an equation to represent a multiplication or division story problem and an array... [The student] demonstrates strength in adding up to 3 1-digit numbers equaling sums within 20... When presented with an addition or subtraction word problem within 20, [the student] needs further instruction in setting up and solving problems... When given a calculator and a reminder to check the operation [the student] can solve addition, subtraction, multiplication and division problems. Given an operation and modeled how to use manipulatives to solve it [the student] can solve simple addition, subtraction, multiplication and division problems. [The student] needs to be prompted to remember to carry over numbers in multiple digit addition problems. [The student] cannot extrapolate from word problems the necessary operation to solve for the equation.”
- Level of performance: “G.E. one”
 - Employment: Symbol Based Informal Student Vocational Assessment 09/20/2024, student interview 09/20/2024 and teacher observation data are reflected. “After high school [the student] expressed that she would like to work rather than attend a trade school or college classes. [The student] has expressed interest in working at a restaurant. In particular [the student] would like to work at a McDonald's making food or helping at the cash register. [The student] has identified things she can do by herself as getting dressed, making food, showering, and cleaning. [The student], also, identified as helping her mother with laundry as a skill she has... [The student] can follow directions, learn new jobs and works well with others.”
 - Level of performance: “N/A”
 - Education/training: student interview, record review, and “O-Net” data are reflected. PLAAFP employment and reading comprehension data are also referenced. “As a fast-food counter worker [the student] will use skills such as: - Service Orientation — Actively looking for ways to help people. - Active Listening — Giving full attention to what other people are saying, taking time to understand the points being made, asking questions as appropriate, and not interrupting at inappropriate times. - Social Perceptiveness — Being aware of others' reactions and understanding why they react as they do. - Coordination — Adjusting actions in relation to others' actions. [The student] will need to increase her academic and social skills to be successful working in a fast-food restaurant.”
 - Level of performance: “N/A”
 - Behavioral self-advocacy: behavioral record and teacher observation data are reflected. “[The student] struggles to advocate for herself when she has needs in the classroom. [The student] will become frustrated with a situation and will not express the need for a break. She has expressed the need for a break in 0 out of 4 observations. [The student] will sit and not ask/request for needed materials such as a pencil or paper to work on. She has been able to request or advocate for needed materials in 1 out of 4 observations.”
 - Level of performance: not reflected

The IEP includes the following annual goals:

- Employment: subject area: math applied problems. “By January 2026, given support and reference tools/manipulatives, [the student] will use money accurately in a money simulation with 75% percent accuracy or in 3 out of 4 targeted trials as measured by teacher observation and informal classroom assessment.”

- Employment Training: “[The student] will practice using money to calculate change in a money simulation in order to prepare for post-secondary employment opportunities working in a fast-food restaurant. Completion will be observed by the school staff in the classroom and during CBI [community-based instruction] trips. Upon receiving the Maryland State High School Certificate of Completion, [the student] will work in the field of Consumer Services, Hospitality, and Tourism, in a fast-food restaurant, with adult supports.”
- Education/training: subject area: behavioral self- advocacy. “By January 2026, given staff modeling and a visual aid, [the student] will demonstrate appropriate skills in self-advocacy by asking for help at appropriate times, in 2 out of 3 targeted trials.”
 - Academic: “[The student] will demonstrate appropriate skills in self-advocacy by asking for help at appropriate times in order to prepare for post-secondary employment opportunities working in a fast-food restaurant. Completion will be observed by school staff. Upon completion of the Maryland High School Certificate Completion, [the student] will complete post-secondary training that will lead to a career in Consumer Services, Hospitality, and Tourism, in a fast-food restaurant, with adult supports.”
- Reading comprehension (goal one): “By January 2026 [the student] with prompting from staff and modeling an instructional-level text, [the student] will make simple predictions before, during or after reading using context clues or other evidence in 3 out of 4 targeted trials as measured by teacher observation and informal classroom assessment with 75% accuracy.”
 - Method of measurement: classroom-based assessment, quarterly informal procedures, quarterly portfolio assessments
 - Criteria (mastery and retention): three out of four targeted trials with 75% accuracy
- Reading comprehension (goal two): “By January 2026, given prompting and a graphic organizer, [the student] will increase comprehension of a variety of printed materials to determine sequence as measured by classroom assessments in 3 out of 4 targeted trials 75% accuracy.”
 - Method of measurement: classroom-based assessment, teacher created assessments, informal procedures, exit tickets, classwork, tests, quizzes
 - Criteria (mastery and retention): three out of four targeted trials with 75% accuracy
- Math applied problems (goal one): “By January 2026, given support and reference tools/manipulatives, [the student] will use money accurately in a money simulation with 75% percent accuracy or in 3 out of 4 targeted trials as measured by teacher observation and informal classroom assessment.”
 - Method of measurement: classroom-based assessment, quarterly informal procedures, quarterly observational record
 - Criteria (mastery and retention): three out of four targeted trials with 70% accuracy
- Math applied problems (goal two): “By January 2026, given manipulatives and a math word problem reference sheet, [the student] will perform simple computation problems with 75 percent accuracy as measured by classroom-based assessment and informal procedures.”
 - Method of measurement: classroom-based assessment, teacher created assessments
 - Criteria (mastery and retention): with 75% accuracy
 - There is no criteria for retention
- Written language expression (goal one): “By January 2026, given staff support and reference tools/materials, [the student] will improve writing skills in the area organization as measured by classroom-based assessments and informal procedures in 2 out of 3 targeted trials with 60% accuracy.”

- Objective One: “By January 2026, with prompting the use of a graphic organizer and word bank [the student] will edit writing to use transitional words and phrases to connect ideas in sentences and paragraphs (e.g., also, for example).”
- Method of measurement: classroom-based assessment, teacher created assessments, informal procedures, exit tickets, classwork, tests, quizzes
- Criteria (mastery and retention): two out of three targeted trials with 75% accuracy
- While the objective is measurable, the goal itself is not measurable as written. It is unclear as to what will be measured.
- Written language expression (goal two): “By January 2026, given reference materials and staff prompting, [the student] will increase writing skills to identify or edit for subject-verb agreement and to use correct capitalization and ending punctuation in the area of writing conventions as measured by classroom assessment and writing samples with 75% accuracy.”
 - Method of measurement: classroom-based assessment, teacher created assessments, informal procedures, exit tickets, classwork, tests, quizzes
 - Criteria (mastery and retention): with 75% accuracy
 - There is no criteria for retention
- Behavioral self-advocacy: “By January 2026, given staff modeling and a visual aid, [the student] will demonstrate appropriate skills in self-advocacy by asking for help at appropriate times, in 2 out of 3 targeted trials.”
 - Method of measurement: observational record
 - Criteria (mastery and retention): two out of three targeted trials

The IEP includes implementation of the following supplementary aids, services, and accommodations to aid with behavior self-advocacy:

- Small group
- Separate or alternate location
- Frequent breaks
- Reduced distraction to self
- Extended time (1.5x)
- Social-behavior support: daily as needed: encourage student to ask for assistance when needed
- School personnel: daily as needed: adult support

The IEP requires 20 hours weekly outside of the general education classroom. The student will receive instructional services outside the general education environment in the [REDACTED] ([REDACTED]) Program.

6. On March 18, 2025, the IEP team convened to discuss the results of the FBA and develop a Behavior Intervention Plan (BIP). The PWN generated after the meeting reflects that the IEP team determined that the behavior of concern, “following the provision of reasonable directives to complete a nonpreferred task, or redirection and/or reminders, [the student] will make threatening statements to the adult working directly with her who is supporting her and providing the directives, redirection, or reminders,” requires the support of a BIP. In addition, the PWN reflects that the IEP team explained how the adult support would be used to deescalate behavior episodes i.e., supporting the student during breaks, reengaging in the tasks, etc. The student does not require the additional adult support to complete academic work, more so for behavioral supports.

There is documentation that this PWN was translated to the parent’s native language.

On March 18, 2025, the translated PWN was provided to the parent.

7. The IEP amended on March 18, 2025, continues to reflect the student's primary disability as autism with reading comprehension, written language expression, math calculation, employment, education/training, behavioral self-advocacy, and social emotional-behavioral as areas impacted by the disability.

The PLAAFP additionally reflects social emotional-behavioral: March 18, 2025, FBA, and teacher observation data are reflected. "[The student] has difficulty expressing and understanding her feelings and has a low frustration tolerance. It is difficult for her to accept prompts and reminders to complete her work if it is something that she does not want to do, prevents her from a preferred activity, or is counter her expectations (i.e., asked to use a color other than pink in Art class). [The student] becomes frustrated, shuts down and actively refuses to participate, or presents distracting behaviors (e.g., singing loudly, saying inappropriate things). These lower-level behaviors generally preceded her threatening behavior from not being able to avoid task demands 0-2 times per day 2 -10 times per week. The intensity and frequency of her behavior has significantly decreased now that her adult assistant has changed, although it remains present. This behavior occurs in all classes aside from PE when [the student] is provided a reasonable adult request or tasked with completing classwork that she does not want to comply with or complete... [the student] attempts to avoid completing work in class by shutting down or demonstrably refusing to participate."

The IEP requires the implementation of a BIP.

The IEP requires additional supplementary aids, services, and accommodations to aid in behavior: multiple staff working with the student; daily as needed.

8. The BIP developed on March 18, 2025, reflects the following:
- Background information including academic history (attendance, special education history, educational functioning, and discipline referrals)
 - Strengths of the student
 - Student interests and preferences
 - Staff members who have a good rapport with the student
 - Student's preferred school activities: art class
 - Identified behavior of concern #1: "Following the provision of reasonable directives to complete a nonpreferred task, or redirection and/or reminders, [the student] will make threatening statements to the adult working directly with her who is supporting her and providing the directives, redirection, or reminders"
 - Summary statement
 - Functional replacement behaviors:
 - "To address the function of avoiding demands, the student will: [the student] will use the learned process of requesting a short duration (2-3 minutes) supervised break in the back of the classroom.
 - To address the function of avoiding object/activity, the student will: [the student] will use the learned process of requesting a short duration (2-3 minutes) supervised break in the back of the classroom."
 - Date quotative baseline data for behavior was established: February 19, 2025

- Baseline level for the behavior:
 - “[The student] becomes frustrated, shuts down and actively refuses to participate, or presents distracting behaviors (e.g., singing loudly, saying inappropriate things). These lower-level behaviors generally preceded her threatening behavior from not being able to avoid task demands 0-2 times per day 2 -10 times per week. The intensity and frequency of her behavior has significantly decreased now that her adult assistant has changed, although it remains present.”
- Date the behavioral target is anticipated to be met: February 26, 2026
- Target level for behavior: “The behavior will decrease 2-4 times per week.”
- Staff assisting with data collection
- Staff members responsible for reporting data
- Identified behavior of concern #2: “When [the student’s] expectations are not met, and her threatening behavior does not work to remove the task demand, [the student’s] behavior will escalate to include invading the supporting adult’s space, throwing things at them, and ultimately to physical harm toward the supporting adult.”
 - Summary statement
 - Functional replacement behaviors:
 - “To address the function of avoiding demands, the student will: [the student] will use the learned process of requesting a short duration (2-3 minutes) supervised break in the back of the classroom.
 - To address the function of avoiding object/activity, the student will: [the student] will use the learned process of requesting a short duration (2-3 minutes) supervised break in the back of the classroom.”
 - Date quotative baseline data for behavior was established: February 19, 2025.
 - Baseline level for the behavior:
 - “[The student] becomes frustrated, shuts down and actively refuses to participate, or presents distracting behaviors (e.g., singing loudly, saying inappropriate things). These lower-level behaviors generally preceded her threatening behavior from not being able to avoid task demands 0-2 times per day 2 -10 times per week. The intensity and frequency of her behavior has significantly decreased now that her adult assistant has changed. According to the data that was collected, physical aggression has not been reported since the switch was made.”
 - Date the behavioral target is anticipated to be met: March 18, 2026.
 - Target level for behavior: “The behavior will decrease to 0-1 times per month with no incidents of physical touching.”
 - Staff assisting with data collection
 - Staff members responsible for reporting data
- Proactive strategies, including perceived functions of the behaviors of concern, contributing factors, antecedents/triggers, and the skills the student needs to learn to establish the replacement behaviors.
- Positive reinforcement:
 - “[The student] will be provided opportunities to earn independent rewards, such as the ability to quietly play with her dolls or access another school appropriate activity upon demonstrating successful use of her replacement behavior, scaled up as she becomes more proficient.”

- Response strategies:
 - “Staff will address the behavior with [the student] in a calm non-confrontational scripted manner 1:1 providing her physical space (e.g., not standing over her) in a predeveloped scripted manner to promote routine expectations.”
- Urgent response plan:
 - “Adult Assistant/Para-Educator/Special Educator - 1:1 address the non-compliance/refusal - speak to [the student] in a calm voice providing physical space (e.g., not standing directly over the student) - set clear expectations - Do NOT use too many words when providing directives or prompts and reminders and then check-in regularly to ensure student understanding of clear and concise expectations. SEL [social emotional learning] teachers - De-escalation if [the student] becomes escalated prior to initiating Behavior 2. Removal of student from the learning environment to counseling office for more in-depth de-escalation and response to behavior via debriefing.”
- Staff development

DISCUSSIONS AND CONCLUSIONS:

ADDRESSING PRIVATE MEDICAL LETTERS

In this case, it is alleged that the BCPS was provided private medical letters; April 10, 2024, [REDACTED] medical letter and December 23, 2024, [REDACTED] ([REDACTED]) medical letter.

While there is documentation that these medical letters exist, there is no documentation demonstrating that they were provided to the BCPS, triggering the IEP team to consider them.

Based on Findings of Fact #1 and #4, MSDE finds that the BCPS was not required to address the results of medical letters obtained at private expense because it is unclear of when or if they were provided to the BCPS by the parent in April 2024, and October 2024, in accordance with 34 CFR §§ 300.324 and .305. Therefore, MSDE finds no violation.

IEP DEVELOPMENT

Based on Findings of Fact #2, #3, #5 though #8, MSDE finds that the BCPS has developed an IEP that addresses the student’s identified behavior needs, since December 3, 2024, in accordance with 34 CFR § 300.324. Therefore, MSDE does not find a violation.

AN IEP THAT CONTAINS APPROPRIATE GOALS AND PRESENT LEVELS

The PLAAFP statement should include the following components: a description of the student's current academic achievement, strengths and weaknesses, functional performance details including a narrative and data when applicable, information about how their disability impacts their involvement and progress in the general education curriculum (34 CFR § 300.320), baseline data to measure progress, and input from caregivers and service providers (MARYLAND STATEWIDE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS GUIDE, Early Intervention and Special Education Services, March 2024).

The public agency must ensure that the IEP contains measurable annual goals, including academic and functional goals designed to meet the child's needs resulting from the child's disability. These goals should enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other educational needs resulting from the child's disability (34 CFR § 300.320).

In this case, the January 14, 2025, and March 18, 2025, IEPs' math applied problems (goal two) and written language expression (goal two) goals do not state the criteria for retention, making them not measurable because they are not clearly written. In addition, the written language (goal one), is not measurable as written because it is unclear as to what exactly will be measured.

Based on Findings of Fact #5, #7, and #8, MSDE finds that the BCPS has ensured that the IEP contains appropriate measurable goals in the areas of employment, education/training, reading comprehension (goals one and two), math applied problems (goal one), behavior self-advocacy and a statement of the student's PLAAFP since January 2025, in accordance with 34 CFR § 300.320. Therefore, MSDE finds no violation.

Based on Findings of Fact #5, #7, and #8, MSDE finds that the BCPS has not ensured that the IEP contains appropriate measurable goals in the areas of math applied problems (goal two) and written language expression (goal one and two) since January 2025, in accordance with 34 CFR § 300.320. Therefore, MSDE finds a violation.

PROVISION OF PWN AND CONSENT TO EVALUATE IN THE PARENT'S NATIVE LANGUAGE

The public agency is required to provide the parent of a student with a disability with written notice before proposing or refusing to initiate or change the identification, evaluation, or educational placement of the student or the provision of a FAPE to the student. This notice includes a description of the action proposed or refused, an explanation of the action, a description of each evaluation procedure, assessment, record, or report used as a basis for the decision, a statement that the parents of a student with a disability have protection under the procedural safeguards and the means by which a copy of the description of the safeguards can be obtained, sources for parents to contact to obtain assistance in the understanding the provisions, a description of other options that the IEP team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal (34 CFR §300.503).

In addition, the prior written notice must be written in language understandable to the general public and be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so (34 CFR §300.503(c)).

In this case, in its written response, the BCPS acknowledges that they did not provide the parent with the translated consent to evaluate form for an FBA in the parent's native language, which was generated on December 3, 2024, and consent granted by the parent on December 20, 2024. The IEP team convened on March 18, 2025, there is documentation that the translated PWN was provided to the parent on March 21, 2025.

Based on Findings of Fact #3 and #6, MSDE finds that the BCPS did not provide the parent in their native language the consent to evaluate form for an FBA since December 2024, in accordance with 34 CFR §§ 300.300 and .503 and COMAR 13A.05.01.12. Therefore, MSDE finds a violation.

Based on Findings of Fact #3 and #6, MSDE finds that the BCPS did provide the parent in their native language the prior written notice (PWN) of the IEP team's decisions since February 2024, in accordance with 34 CFR §§ 300.300 and .503 and COMAR 13A.05.01.12. Therefore, MSDE does not find a violation.

ALLEGATION #4

DISCIPLINARY PROCEDURES

FINDINGS OF FACT:

9. On October 29, 2024, a Student Threat Incident Report: Threat to Harm Others or Property form was generated. The form reflects that the student made a “Level II: Moderate/Serious Substantive Threat” to a staff member. The form reflects the witnesses to the threat, staff member who reported the threat, events that may have triggered the threat, and additional interventions utilized. The parent was notified and “elected based on recommendations following the school’s threat assessment, to take the student an outside mental health evaluation due to ongoing safety concerns in lieu of an emergency petition.”

There is no documentation that the student was disciplinarily removed from school as a result of this incident.

10. On November 8, 2024, the student was suspended for six days as a result of a behavior incident.

11. On January 15, 2025, a Student Threat Incident Report: Threat to Harm Others or Property form was generated. The form reflects that the student made a “Level II: Moderate/Serious Substantive Threat” to a staff member. The form reflects the witnesses to the threat, staff member who reported the threat, events that may have triggered the threat, and additional interventions utilized. The parent was notified and picked the student up and took her for a medical assessment.

There is no documentation that the student was disciplinarily removed from school as a result of this incident.

DISCUSSION AND CONCLUSION:

The IDEA and COMAR provide protection to students with disabilities who are removed from school in excess of ten school days in a school year. A student with a disability may be removed from the student’s current placement for up to ten consecutive school days for each incident of misconduct in a school year if the cumulative effect of the removals does not constitute a change in placement and they are for any violation of school rules to the same extent that removal is applied to students without disabilities (34 CFR § 300.530 and COMAR 13a.08.03.03).

In this case, the complainant alleges that the BCPS has not followed proper procedures when disciplinarily removing the student from school on October 29, 2024, November 8, 2024, and January 15, 2025. In this case, October 29, 2024, and January 15, 2025, discipline incidents did not result in suspension from school, however there is documentation that the school team called the parent; and the parent decided to pick up the student for medical evaluations. The January 15, 2025, behavior incident resulted in the student being suspended for five days. The student has not been suspended in excess of ten days and the procedural safeguards afforded students with disabilities under the IDEA are not applicable.

Based on Findings of Fact #9 and #10, MSDE finds that the student has not been disciplinarily removed from school in excess of ten school days triggering disciplinary protections under IDEA. Therefore, the BCPS followed proper procedures when disciplinarily removing the student from school, in accordance with 34 CFR § 300.530, COMAR 13A.08.02, COMAR 13A.08.03, and COMAR 13A.08.01.11. Therefore, MSDE does not find a violation.

CORRECTIVE ACTIONS AND 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.² 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 action.³ Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the BCPS to provide documentation by June 30, 2025, that the IEP team has convened and determined whether the violation related to not providing the consent to evaluate form for the FBA in the parent's native language and measurable goals had a negative impact on the student's ability to benefit from the education program. If the IEP team determines that there was a negative impact; it must also determine the amount and nature of compensatory services or other remedies to redress the violation and develop a plan for the provision of those services within a year of the date of this Letter of Findings.

The BCPS must ensure that the parent is provided with prior written notice of the team's decisions. The parent 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 the BCPS to provide documentation by June 30, 2025, of the steps taken to ensure that the violation does not recur at [REDACTED] School. The steps must include professional development.

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. The written

² 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.

³ MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

request for reconsideration should be provided to Tracy Givens, Section Chief, Dispute Resolution via email 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/sd

c: Dr. Myriam Rogers, Superintendent, BCPS
Dr. Jason Miller, Coordinator, Special Education Compliance, BCPS
Norma Villanueva, Compliance Specialist, BCPS
[REDACTED], Principal, [REDACTED] School, BCPS
Dr. Brian Morrison, Branch Chief, Accountability and Data, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Nicole Green, Compliance Specialist, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Sarah Denney, Complaint Investigator, Dispute Resolution, MSDE