



September 1, 2023



Ms. Kia Middleton-Murphy
Director of Special Education Services
Montgomery County Public School
850 Hungerford Drive, Room 225
Rockville, Maryland 20850

RE: [REDACTED]
Reference: #24-005

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.

ALLEGATION:

On July 6, 2023, the MSDE received a complaint from [REDACTED] the “complainant,” on behalf of her son, the above referenced student. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) with respect to the above-referenced student.

MSDE investigated the allegation that the MCPS did not follow proper procedures when determining the student’s educational placement in April 2023, in accordance with 34 CFR §§300.114 -.116.

BACKGROUND:

The student is six years old and is identified as a student with Autism under the IDEA. The student is currently enrolled in [REDACTED] instruction and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACTS

1. On December 4, 2022, shortly after the student moved from [REDACTED] to Montgomery County, the complainant made a request to MCPS “for the IEP for my son”. The student, however, was not enrolled in the MCPS at this time.

2. On December 5, 2022, MCPS staff responded to the parent and provided her with resources related to the student's ability to receive services and his eligibility under the IDEA in [REDACTED] instruction and private school settings.
3. There is documentation that by January 6, 2023 the complainant submitted verification to the MCPS that the student was receiving [REDACTED] instruction. From that date to the present, the student has participated in [REDACTED] instruction while residing in Montgomery County.
4. While the [REDACTED] local education agency (LEA) found the student eligible under the IDEA and developed an IEP on September 22, 2020, there is no documentation that the student had a current IEP in place at the time that he moved to Montgomery County. The IEP developed by the [REDACTED] LEA required special education services in the area of social emotional, language development, and communication.
5. On February 15, 2023, the MCPS convened an IEP team meeting for the student to determine eligibility under the IDEA. The IEP team recommended that the student be assessed in speech and language, academic, cognitive, behavioral, and social/emotional (attention) areas.
6. On March 20, 2023, the IEP team met to complete the evaluation, determine eligibility and, if appropriate, develop an IEP. The IEP team used formal assessments and input from the complainant to determine that the student was eligible under IDEA as a student with Autism.
7. On March 30, 2023, the complainant was provided with a draft IEP, in anticipation of an IEP team meeting to be convened on April 17, 2023. The draft IEP included proposed present levels of academic achievement and functional performance, proposed supplementary aids and supports, accommodations, and goals.
8. On April 17, 2023, the IEP team met to develop an IEP for the student. The IEP team developed goals in the areas of reading comprehension, math calculation, social emotional behavior, self-management, and speech and language. The complainant determined the student would continue with [REDACTED] instruction for the remainder of the 2022- 2023 school year, and the team determined that the student would start school and special education services on August 20, 2023.
9. The April 17, 2023 IEP requires that the student receive 26 hours and five minutes of instruction per week outside of the general education classroom. He will attend self-contained art, music, and PE with support from staff alongside his disabled peers. He will attend lunch with his nondisabled peers with support from staff. He will also receive speech and language as a related service outside of the general education classroom one hour a week.
10. The IEP team further determined that the student would receive special education services and support in the "School Community Based (SCB)" program as his least restrictive environment (LRE). In this program, the student would receive support in a small class size with a 2:1 student- teacher ratio, as well as "Alternative Learning Outcomes (ALO)". The team determined this as the appropriate placement for the student due to his current skill level and the need for small class size. The IEP team discussed and rejected placement in the "[REDACTED] Model ([REDACTED] M)", "Learning for Independence (LFI)" and "Autism" classes.

11. On April 19, 2023, the complainant received email correspondence from a member of the IEP team, providing the complainant a completed IEP¹ reflecting the decisions of the IEP team, as well as completed copies of an Appendix A², Appendix C³, and the Prior Written Notice (PWN).
12. There is documentation that the complainant provided consent for the initiation of services on April 19, 2023.

CONCLUSION

ALLEGATION:

PLACEMENT DETERMINATION

Each student's educational placement must be made by the IEP team in conformity with the requirement that to the maximum extent appropriate, students with disabilities, including those in public or private institutions or other care facilities, are educated with nondisabled students. This is the requirement to ensure that the IEP is implemented in the Least Restrictive Environment (LRE). Each public agency must ensure that a continuum of alternative placements is available to meet the needs of students with disabilities, including instruction in the regular class and special classes (34 CFR §§300.114 - .116 and COMAR 13A.05.01.10).

In this case, upon the parent's request, the IEP team developed an IEP for the student while he was receiving instruction. The IEP team determined that, based on the student's needs, he required placement in a regional program that would provide him with intensive support. The draft IEP provided to the parent prior to the April 17, 2023 IEP team meeting did not propose a placement for the student, rather it was determined by the IEP team during the meeting.

Based on the Findings of Facts #1 to #12, MCPS did follow proper procedures when determining the student's educational placement in April 2023, in accordance with 34 CFR §§300.114 - .116. Therefore, this office finds that a violation did not occur with respect to the allegation.

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 (15) days of the date of this correspondence. The new documentation must support a written request for reconsideration, and the written request must include a compelling reason for why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

The parties maintain the right to request mediation or to file a due process complaint if they disagree with the identification, evaluation, placement, or provision of a Free Appropriate Public Education (FAPE) for the

¹ This completed IEP was labeled draft pending the assignment of an ID number for the student. The staff made it clear that this document was the completed IEP with changes made from the IEP meeting.

² Appendix A is the form utilized by the IEP team to make determinations regarding the student's participation in the alternate framework.

³ Appendix C is the parental consent form for participation in the alternate framework.

Ms. Kia Middleton-Murphy

September 1, 2023

Page 4

student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Dr. Deann M. Collins

Deputy Superintendent

Office of the Deputy Superintendent of Teaching and Learning

DC/sj

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