

January 12, 2024

**AMENDED February 28, 2024**

[REDACTED]

Ms. Kia Middleton Murphy  
Acting Director, Special Education  
Montgomery County Public Schools  
850 Hungerford Drive, Room 225  
Rockville, Maryland 20850

RE: [REDACTED]  
Reference: #24-071

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 11, 2023, MSDE received a complaint from [REDACTED], hereafter, “the complainant,” on behalf of his daughter. 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 following allegations:

1. The MCPS did not follow proper procedures when using physical restraint on the student on September 29, 2023, and October 26, 2023, in accordance with COMAR 13A.08.04.05.
2. The MCPS has not ensured that the IEP team has addressed parental concerns since October 2023, in accordance with 34 CFR §300.324.
3. The MCPS did not ensure that the IEP team convened to review the student’s IEP before November 10, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
4. The MCPS has not ensured that issues regarding the student’s transportation service and safety needs were addressed at the November 10, 2023, IEP meeting in accordance with 34 CFR §300.324.

**BACKGROUND:**

The student is 12 years old and is identified as a student with Multiple Disabilities (Autism, Emotional Disability, and Other Health Impairment) under the IDEA. In September 2023, the MCPS placed the student at [REDACTED] ([REDACTED]). The student has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACTS:**

**ALLEGATIONS #1, #2, and #4: PROPER PROCEDURES WHEN USING PHYSICAL RESTRAINT, ADDRESSING PARENT CONCERNS, AND ADDRESSING TRANSPORTATION NEEDS ON NOVEMBER 10, 2023**

1. On October 13, 2023, the complainant sent an email to staff at [REDACTED] stating that he was concerned about the student's headbanging and other self-injurious behaviors that occur at school, and he would like to discuss ABA therapy and a padded helmet to prevent traumatic brain injury during those episodes at the next IEP meeting.
2. On October 13, 2023, the complainant returned a signed IEP meeting notice where he reiterated that he would like to discuss the topics included in his email, in addition to any "need for restraints [that] can be addressed through related ABA services."
3. On October 20, 2023, the complainant sent an email to staff at [REDACTED] requesting changes to the student's draft IEP. Specifically, the complainant requested that the student receive an assistive technology assessment, an occupational therapy evaluation, a new functional behavior assessment and behavior intervention plan, ABA therapy, and restraint on the school bus due to the student hitting her head on the window. Specifically, the complainant suggested a safety vest, and for the student to be seated away from peers and bus windows to prevent injury. The complainant also requested that the IEP team ensure that the student receive her instructional supports and related services and establish a time and frequency schedule for the student's social skills goal. The complainant requested services logs for speech and counseling, work samples, and data collected as stated in the Safety Plan and "the opportunity to discuss immediate options for protecting the student's head when the student engages in head-banging behavior while at school." Finally, the parent requested to view the documentation or report for each incidence of physical restraint and stated that the student had also reported an incidence of restraint on Thursday, October 19, 2023.
4. On October 23, 2023, the complainant resent his October 20, 2023, email to staff at [REDACTED].
5. Also on October 23, 2023, the complainant sent an email to MCPS staff stating that he had been called "around September 27" concerning a restraint that the student was in. The complainant also stated that the student had reported being restrained on October 19, 2023. According to the email, both restraints involved one particular behavior specialist, and an additional staff member was involved in the October 19th restraint. The complainant stated that he was concerned that the school reported that there was no documentation of these restraints, and asked what the central office could do to help resolve the issue. The complainant expressed that he understands that there may be a need to restrain the student for her safety; however, the lack of documentation of restraints is concerning.
6. There is no documentation of a physical restraint being used on this student on October 19, 2023.
7. On October 24, 2023, the IEP team at [REDACTED] convened a meeting to conduct the annual review for the student. The Prior Written Notice (PWN), dated November 17, 2023, states that this meeting was changed from an annual review to a parent conference due to concerns raised by the parent about physical restraint reported by [the student]." According to the PWN, the student told the complainant that several staff members had physically restrained her. [REDACTED] responded that the student had never been restrained since her enrollment at the school and that the student's behaviors did not rise to a level that would warrant restraint. It was stated that the student received a two-person escort after she exited the bus to ensure her safety because "...when [the student got] off the bus she [had] a tendency to bolt [and] there [were] buses

in front of her bus that [were] departing and there [were] buses and cars [that arrived] behind her bus.” According to the staff, to ensure the student’s safety “about two times per week” the student was provided with a two-person escort after she exited the bus which consisted of “a staff member...on both sides with an arm placed lightly under [the student’s] elbow. [The student had] complete freedom of mobility and the staff removed their arms once they [were] inside the school door.” The PWN also reflects that school staff reported that the student had a “minor behavior incident” on October 23, 2023, in which she needed to be removed from the classroom. During the incident “staff implemented the two-person escort to transition [the student] to the Reflection Room (the room [used] for [the student] to calm down to avoid further escalation). Staff reported that [the student] left the room without any resistance.” The IEP chair shared that staff is required to report physical restraints to parents as soon as possible and in writing to MCPS within 24 hours of the incident, and he also confirmed that MCPS had not received a report of the student having been restrained. The PWN states that the complainant was told that the approved physical intervention system used by [redacted] trained staff has never been considered as an intervention for the student. It was also “explained that at no time [was the student’s] freedom of independent movement...restricted during the escort.” The IEP chair stated that he would schedule a meeting with the MCPS system-wide physical intervention trainer to get clarification and would share the outcome of the meeting with the complainant and the staff at [redacted]. There is no documentation that any information was shared with the complainant from this meeting.

8. On October 25, 2023, the complainant emailed [redacted] staff that the student reported feeling overstimulated in class “before the behavior happened,” and that when she requested to go to the sensory room a second time she was told that it was too soon. Additionally, the complainant expressed that the student often mentioned that her dedicated aide was not present at times throughout the day, and staff not being available prevented her from going back to the sensory room. In this email, the complainant shared that he hoped that a sensory diet would help with the sensory issues, and asked if it was possible for the student to have more frequent access to a quiet space during learning time.
9. There is documentation that the student was seen at [redacted] at 6:40 p.m. on October 26, 2023. The physician’s notes state, “Has a history of headbanging” and “Struck back of head today while she was allegedly being restrained by staff at school.” Behavior documentation from [redacted] reflects the following incidents:
  - 1:14 pm - the student banged her head four times and was uncommunicative;
  - 1:18 pm - the student asked for a walk;
  - 1:20 pm - the student banged her head in the hallway and was uncommunicative;
  - 2:43-2:44 pm - the student tried to exit the classroom;
  - 2:48 pm – destroying; and
  - 2:54 pm - pushing cubicle.
10. There is no documentation of a physical restraint being used on this student on October 26, 2023.
11. On October 27, 2023, the complainant sent an email to [redacted] staff stating that on October 26, 2023, the student reported “three staff held her arms and hit her head against the wall at school... [the student reported symptoms of concussion last night to the doctor at urgent care and he confirmed a head injury]. She reported to him it was due to the “restraint” at school and the pain was consistent in terms of the back of the head. [The student] stated she hits her head facing forward.” The complainant ended this email imploring the staff to “please immediately change the interventions used on

[the student] at [REDACTED].” [REDACTED] staff responded to the complainant’s email stating that an IEP team meeting would be scheduled to “review the appropriateness of the placement.”

12. On October 31, 2023, the complainant sent a letter to [REDACTED] and the MCPS staff requesting that certain information be included in the PWN for the student’s IEP meeting now scheduled for November 10, 2023. In that letter, the complainant stated that “on October 24th the school team met to discuss staff repeatedly using physical aggression on [his] daughter” when the student had been “physically prevented from movement on two occasions.” The complainant stated that “the administration of the school agreed concerning the actions of staff but had denied that the actions were restraints.” The complainant further stated that on October 26, 2023, the staff used “physical aggression on [the student] that resulted in a head injury” which was observed by an administrator of the school without intervention. According to the complainant’s letter, the staff had not documented the restraint, but the injury caused to the student by the school staff was documented in a medical report and a police report. The complainant shared that he had reported the incident to district and school administrators on October 27, 2023, and “on October 30, 2023, a representative from the MCPS called [the complainant] to inform [him that] the district [agreed] the restrictions were restraints according to the state of Maryland laws and corrective action would be taken.” The complainant ended his correspondence by requesting that his child’s placement be changed for safety reasons and that the student’s right to a free appropriate public education had been violated by suffering physical injury and disruption to her school day by physical altercations that were not documented as restraints although staff stated at the

October 24, 2023, meeting that the student’s behaviors had not required restraints. The complainant requested that the MCPS further investigate the situation.

13. On November 6, 2023, staff at [REDACTED] documented a “Non-behavior Event Report” during which the student stated that she had a headache, became agitated, and displaced items in the classroom until staff was able to calm her down. No restraint was documented as being utilized, and the student “safely and compliantly exited the room and boarded the bus.” Behavior documentation from [REDACTED] reflects the following incidents:
- 12:46 pm - the student eloped out of class;
  - 12:47 pm - the student pushed past staff/proximity control offering choices;
  - 12:48 pm - the student tried to elope outside;
  - 12:50 pm - the student took a walk outside ([REDACTED]);
  - 1:24 pm - Sensory room ([REDACTED]) the student eloped due to frustration from science;
  - 2:15 pm - the student tried to elope from school;
  - 2:25 pm - the student stated she had a headache; and
  - 2:21 pm - the student knocked over 3 cubicles and ripped paper.

This information was sent to the complainant in an email from [REDACTED] staff on the same day.

14. There is documentation from a healthcare provider dated November 6, 2023, at 8:29 p.m., that reflects that the student “[admitted] to having an outburst at school earlier that day and threw 2 desks. Notes her trigger was not understanding her work and not feeling supported by teachers.”
15. On November 10, 2023, the IEP team met to review and revise the student’s IEP. The prior written notice dated November 14, 2023, states that the MCPS was proposing to continue the annual IEP team meeting for the student to have the appropriate staff available to consider the parent’s request for an assistive technology assessment, an occupational therapy assessment, a functional behavior assessment and

behavior intervention plan, a padded helmet, special restraint on the bus, and ABA therapy. Due to a need to stop the meeting early, the team proposed to extend the student's IEP dated November 3, 2022, for thirty days. The prior written notice reflects that the complainant had originally agreed to the extension, but then rescinded his approval. At this meeting, the MCPS proposed to increase the student's speech and language therapy from one thirty-minute session per week to two thirty-minute sessions per week, and "confirmed that the escorts as described by staff and implemented to support [the student] in moving from one location to another is not a physical restraint because freedom of movement is not restricted." The MCPS also proposed that the student's goals and objectives and academic and speech and language present levels of academic achievement and functional performance had been discussed and agreed upon at this meeting. The notice reflects that the MCPS proposed to take these actions "because the appropriate staff to engage in the discussion about the additional requests made by the parent were not available," in addition to the stated time constraints. During the meeting, the complainant raised concerns about not having received the draft IEP for this meeting five days prior, as required by MSDE, and "it was explained [to him] that the draft IEP that he had received for the November 10, 2023, IEP team meeting was the same document that he received on October 20, 2023, for the October 24, 2023, IEP team meeting that was converted to a parent conference."

16. On November 11, 2023, the complainant sent an email to the MCPS Central Office staff stating that the student had received a head injury "during school hours on 10/26/2023." He also expressed that the student has "head banging, PICA, and elopement." The complainant stated that the bus staff had expressed concerns about the student's safety while riding the bus, and at two previous Central Office IEP meetings on October 24, 2023, and November 11, 2023, when the complainant attempted to request accommodations and related services for the student in the form of a helmet, padding on the bus and desk, or other safety measures the CIEP chair did not or would not address the complainant's concerns. The complainant stated that although the team addressed placement for the student, she was expected to remain in her current placement at [REDACTED] without any safety measures being put in place. The complainant stated that the student received her head injury after the first CIEP meeting and requested that the district immediately implement safety measures to prevent further injury to the student while at school. On this date, the complainant specifically requested the following:

1. Padded bus, desk, and/or walls for head safety;
2. A safety vest for the bus;
3. A new FBA and BIP for PICA and Headbanging;
4. ABA therapy in school to address the student's dangerous behaviors;
5. An occupational therapy evaluation;
6. Sensory diet;
7. The accommodation of written copy and/or autism book of verbal; instruction. Have staff use signs/Autism books for directions;
8. Extend speech to two times weekly for thirty minutes to address receptive communication and teaching safety skills;
9. Therapeutic Recreation to work on social skills during school breaks;
10. An assistive technology assessment;
11. Noise-canceling headphones; and
12. Staff to use an ABC chart for all behaviors.

The MCPS Central Office staff responded to the complainant's email on November 13, 2023, and on November 17, 2023, the complainant was told to request an IEP meeting with the MCPS Central Placement Unit and to provide the team with any discharge documents within a reasonable time prior to the meeting in order to allow sufficient time for the documents to be reviewed. The complainant responded to this by

sharing that he had submitted his requests in writing at the IEP meetings that had taken place on October 24, 2023, and November 10, 2023, at which time the IEP chair refused to discuss the aforementioned needs, and at the current time, the student was inpatient having an extensive neurological workup for the head injury that she received at school.

17. There is documentation that on November 16, 2023, the student was seen by another healthcare provider who was consulted for a “possible concussion.” The physician’s notes state “They state that they were hitting the front of their head against the wall and against the window on the bus. [The student] also reports that the staff at school slammed their head against the wall at school... [the student] reports having some intermittent headaches the last being this morning when they woke up. They point to the back of their head.” Included in the discussion of diagnosis and treatment is a recommended referral to pediatric neurology for further evaluation.
18. On November 17, 2023, the complainant sent another letter to the MCPS stating that the student’s neurologist had recommended new psychological testing in response to the head injury she had received on October 26, 2023. In this correspondence, the complainant requested a new psychological evaluation for the student “to identify [her] new level of intelligence.”
19. On November 21, 2023, the complainant sent another letter to the MCPS and [REDACTED] stating that he had concerns regarding the behavior goals and counseling supports listed in the student’s draft IEP for her December 5, 2023, meeting. In this correspondence, the complainant stated that these goals and supports were based on verbal instruction that the student could not understand, and he was requesting that the goals be adjusted for the student’s receptive language issues.
20. On November 27, 2023, the complainant sent an email to the IEP chair that contained information that he wanted to be included in the parental input section of the student’s IEP. In that communication, the complainant stated that on October 26, 2023, the student stated that she had asked for a sensory break due to being overstimulated but was told she would have to wait five minutes, despite having a dedicated aid and documented receptive communication delays. According to the email, the student became upset and was restrained by three staff members whom the student alleged slammed her head into a wall. The complainant stated that the student was diagnosed with concussion syndrome due to the actions of the staff on that day. The complainant further stated that he was called to the school bus on November 6, 2023, due to the student banging her head on the glass of the bus and being unable to speak. He stated that he took her directly to the emergency room once he retrieved her from the bus and the student was diagnosed with “cognitive change from head trauma”, then at the November 11, 2023, meeting when the complainant voiced his concerns regarding the student’s safety and the need for safety precautions and accommodations to be placed in the student’s IEP he was dismissed and informed that safety precautions would also not be discussed at that meeting. The complainant stated that the student had been hospitalized for over twenty days “...with a sabbatical of imaging and workups to determine the state of cognitive changes [which] the neurologist [stated has most likely caused permanent trauma to the student’s head.” The IEP chair responded to the complaint’s concerns by offering an apology to the complainant with regard to discussing his concerns and sharing that the needed information or staff members were not available to discuss those concerns at the previous meeting. The team planned to meet again on December 5, 2023, to discuss the issues that the complainant had expressed.
21. The IEP team met again on December 5, 2023, to conduct the student’s annual review. According to the prior written notice dated December 8, 2023, the MCPS proposed to do the following:

- Provide the student with two 30-minute sessions of speech and language therapy per week, outside of the general education environment.
- Provide the student with two 30-minute sessions of counseling services per week, outside of the general education environment.
- Conduct an occupational therapy assessment once the student has returned to school and “readjusted to the structure.”
- Conduct a functional behavior assessment once the student has returned to school and “has had a reasonable time to resettle in the school environment.”
- Develop a behavior intervention plan.
- Add that the student will be provided breaks upon request to the student’s IEP unless there are specific staffing issues.
- Provide the student with a copy of the teacher’s notes for all lectures.
- Provide the student with a safety harness and padded windows on the bus.
- Provide the student with a standard padded helmet.
- Provide the student with as many visuals as reasonable to support the student’s receptive language deficits.
- Collect data to help determine if the student needs assistive technology.
- Allow the student to access self-provided sunglasses due to light sensitivity.
- Allow the student to access noise-canceling devices due to noise hypersensitivity.

The prior written notice reflects that the MCPS refused to do the following:

- Provide Applied Behavior Analysis because it is a medical intervention recommended by a medical doctor.
- Train the student’s teachers and one-to-one aide in ABA because if the FBA data indicates the need for a BIP, principles of ABA can be integrated into the BIP.
- Provide the student with an updated cognitive assessment.

The prior written notice also reflects that the complainant indicated that he would not be sending the student back to [REDACTED] due to his concerns for her safety. The [REDACTED] team disagreed that the student had received a head injury during a physical restraint at school and reported that the student’s inappropriate behaviors did not rise to a level that would require physical restraint.

22. There is no documentation of the student being restrained on September 29, 2023.
23. There is no documentation that the student’s FBA/BIP, dated November 3, 2022, were updated to include the student’s additional behaviors of headbanging and PICA.

### **CONCLUSIONS:**

#### **Allegation #1:**

#### **Proper Procedures When Using Physical Restraint**

Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student’s behavior intervention plan or IEP (COMAR 13A.08.04.05).

Although the complainant has expressed that the student reported being physically restrained by [REDACTED] staff on October 19, 2023, and October 26, 2023, there is no documentation of such a restraint<sup>1</sup>. The complainant was provided with documentation regarding the October 26, 2023, "Non-Behavior Event" in a timely fashion. Additionally, there is no documentation of the student being restrained on September 29, 2023.

Based on the Finding of Fact # 6, #10, and #22, MSDE finds that the MCPS followed proper procedures when using physical restraint on the student on September 29, 2023, and October 26, 2023, in accordance with COMAR 13A.08.04.05. Therefore, this office finds that no violation occurred with respect to the allegation.

**Allegation #2: Addressing Parent Concerns**

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. (34 CFR §300.324).

Each public agency must ensure that the IEP team reviews the student's IEP at least annually to determine whether the annual goals for the student are being achieved, and revise the IEP, as appropriate to address any lack of expected progress toward the annual goals and in the general education curriculum, the results of any reevaluation, information about the child provided to, or by the parents, the child's anticipated needs, or other matters (34 CFR §300.324).

During the month of October 2023, the complainant sent several communications to various members of [REDACTED] and MCPS Central Office staff expressing his concerns regarding the health, safety, instructional, behavioral, and emotional supports for his child due to the serious and dangerous nature of the student's self-injurious behaviors and his concerns regarding the serious injuries that the student was experiencing at school. In these communications the complainant requested service logs, data collection, a new FBA/BIP reflecting the student's newly exhibited self-injurious behaviors, various assessments and accommodations for the student. Because there was a delay in finalizing the IEP where the parent concerns were addressed in a finalized IEP.

Based on the Finding of Fact #1 to #5, #7 to #8, #11 to #12, #15 to #16, #18 to #19, and #23 to #26, MSDE finds that the MCPS has not ensured that the IEP team has addressed parental concerns since October 2023, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

**Allegation #4: Addressing Transportation Needs on November 10, 2023**

Each public agency must ensure that the IEP team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum; the results of any reevaluation conducted; information about the child provided to, or by, the parents, the child's anticipated needs; or other matters. (34 CFR §300.324)

The complainant first expressed his very serious concerns regarding the student's safety during transportation on October 20, 2023. Although the student's annual review on October 24, 2023, was rescheduled to allow the team to discuss a pertinent restraint concern, when the team reconvened to conduct the annual IEP review on November 10, 2023, the team had not ensured that the parties necessary to ensure the student received the necessary accommodations were available at the meeting. For this reason, the student had to go another month

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<sup>1</sup> There is a distinction between a restraint and an escort. The student was escorted for her safety on a daily basis. Escorts are specifically excluded from the definition of a restraint. COMAR 13A.08.04.02.11



without the supports necessary to ensure her safety while riding the bus when the team finally addressed her transportation needs at the December 5, 2023, IEP meeting.

Based on the Finding of Fact #3 to #4, #15 to #16, and #20, because of the delay in finalizing the student's IEP, MSDE finds that the MCPS has not ensured that issues regarding the student's transportation service and safety needs were addressed at the November 10, 2023, IEP team meeting in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred with respect to the allegation.

**FINDINGS OF FACTS:**

**ALLEGATION #3:**

**ANNUAL REVIEW**

27. The student's IEP for the 2022-2023 is dated November 3, 2022.
28. There is documentation that an IEP team meeting notice was generated on October 13, 2023, for an IEP meeting to be held on October 24, 2023, to review and revise the student's IEP and address functional behavioral assessment and/or behavioral intervention plan. According to the PWN dated November 17, 2023, "[the student's] Annual IEP team meeting convened on October 24, 2023. The meeting was changed from an Annual Review to a parent conference due to concerns raised by the parent about a physical restraint reported by [the student]."
29. There is documentation that an IEP team meeting notice was generated on October 31, 2023, for an IEP meeting to be held on November 10, 2023, to review and revise the student's IEP and address functional behavioral assessment and/or behavioral intervention plan. According to the prior written notice from the November 10, 2023, meeting, dated November 14, 2023, the MCPS proposed "to continue the Annual IEP in order to have adequate time to consider all of the parent's requests...[and] to extend the IEP dated November 3, 2022, for thirty days." The meeting notice reflects that "[redacted] initially [agreed] to an extension of the November 3, 2022, IEP but rescinded his approval."
30. There is documentation that an IEP team meeting notice was generated on November 21, 2023, for an IEP team meeting to be held on December 5, 2023, to review and revise the student's IEP. The prior written notice from this meeting, dated December 8, 2023, states "This is in response to [the student's] Annual IEP team meeting convened on December 5, 2023."

**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 (34 CFR §300.324).

The IEP team did not complete the student's IEP annual review until December 5, 2023. The student's annual IEP review was out of compliance on November 4, 2023.

Based on the Finding of Fact #27 to #30, MSDE finds that the MCPS did not ensure that the IEP team convened to review the student's IEP before November 10, 2023, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324. Therefore, this office finds that a violation occurred 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. 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<sup>2</sup>. This office will follow up with the public agency to ensure that it completes the required actions 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. Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE, to ensure the effective implementation of the action<sup>3</sup>. Ms. Eisenstadt can be reached at (410) 767-7770 or by email at [alison.barmat@maryland.gov](mailto:alison.barmat@maryland.gov).

**Student-Specific:**

MSDE requires that no later than May 12, 2024, the MCPS convene an IEP team meeting in order to determine the amount of compensatory services or other remedy the student should receive to address the delay in meeting to address the parent's concerns and finalizing the student's IEP between October 24, 2023, and December 5, 2023. The IEP team must develop a plan for the provision of those services within a year of the date of this Letter of Findings. The MCPS must ensure that the complainant is provided with written notice of the team's decisions.

**School-Based**

MSDE requires that no later than May 12, 2024, that it has taken steps to ensure that the requirements of the IDEA related to the timely annual reviews for students placed in nonpublic schools by the MCPS. This must include quarterly monitoring of IEPs for students who are placed in nonpublic schools, regarding the timely convening of annual review meetings. Monitoring reports of a random sampling of 25 students from a representative sample of nonpublic schools must be provided to MSDE on or before June 30, 2024.

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

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<sup>2</sup>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.

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

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 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. Monique Felder, Superintendent, MCPS  
Diana K. Wyles, Associate Superintendent, MCPS  
Eve Janney, Compliance Specialist, MCPS  
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS  
[REDACTED], Assistant Principal, MCPS  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Paige Bradford, Section Chief, Specialized Instruction, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Elizabeth B. Hendricks, Complaint Investigator, MSDE