

April 2, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #24-150

Dear Parties:

The Maryland State Department of Education (MSDE), Division of Early Intervention Special Education Services (DEI/SES), 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 February 22, 2024, MSDE received a complaint from Mr. [REDACTED], hereafter, “the complainant”, on behalf of 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 has not ensured access to the educational record in response to a request made since December 2023, in accordance with 34 CFR §300.613.

BACKGROUND:

The student is 15 years old and attends [REDACTED]. He is identified as a student with Other Health Impairment under the IDEA and has an IEP that requires special education instruction and related services.

FINDING OF FACTS:

1. On December 5, 2023, the complainant requested access to the student’s educational records.
2. There is documentation that on February 26, 2024, the complainant received the available education records.
3. In its written response, the MCPS acknowledges that access to the requested educational records was not provided in a timely fashion.

CONCLUSION:

Allegation #1

Provision of Records

Based on the Findings of Fact #1 - #3, MSDE finds that that MCPS did not ensure access to the educational record in response to a request made since December 2023, in accordance with 34 CFR §300.613. MSDE concurs with the MCPS' conclusions and appreciates the school system's response to the investigation.

Notwithstanding, based on the Findings of Fact #2, MSDE finds that the MCPS provided the educational records on February 26, 2024. Therefore, no additional student-specific corrective action is required concerning 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.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.^[1] 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.^[2] Ms. Barmat can be reached at (410) 767-7770 or by email at alison.barmat@maryland.gov

School-Based

The MCPS proposes professional development for administrative staff at the student's school, prior to the end of the 2023-2024 school year, to ensure that the specific violation does not reoccur. MSDE concurs with the MCPS' proposed corrective action. MSDE requires the MCPS to provide documentation by July 1, 2024, that the corrective action has occurred.

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

¹ The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (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.

² MSDE will notify the Public Agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

██████████
Ms. Kia Middleton-Murphy

April 2, 2024

Page 3

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/Special Education Services

ALH/ra

c: Dr. Monique Felder, Interim Superintendent, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
Peggy Pugh, Chief Academic Officer, MCPS
Maritza Macias, Paralegal, MCPS
Eve Janney, Compliance Specialist, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
██████████, ██████████, Principal, MCPS
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE
Tracy Givens, Section Chief, Dispute Resolution MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Rabiatu Akinlolu, Complaint Investigator, MSDE