

August 8, 2024



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

RE: [REDACTED]  
Reference: #24-268

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 of the final results of the investigation.

**ALLEGATIONS:**

On June 11, 2024, MSDE received a complaint from [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 following allegations:

1. The MCPS has not ensured that the student has been provided with the special education instruction, supplementary supports, and accommodations as required by the Individualized Education Program (IEP) since May 15, 2024, in accordance with 34 CFR §§ 300.101 and .323.
2. The MCPS has not ensured that the IEP team addressed the parent’s concerns, specifically regarding insufficient learning interventions, classroom change, social-emotional challenges, and the delay in receiving the completed IEP since April 24, 2024, in accordance with 34 CFR § 300.324.
3. The MCPS did not provide the parent with a copy of the completed IEP document within five business days after IEP team meetings on May 15, 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.

**BACKGROUND:**

The student is 11 years old and is identified as a student with Autism under the IDEA. During the 2023-2024 school year, the student attended [REDACTED] but will transition to [REDACTED] for the 2024-2025 school year. The student has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACT:**

1. The student's IEP in May 2024 was developed on February 27, 2024. The IEP reflects identified needs in the areas of math problem-solving, reading comprehension, speech-language pragmatics, speech-language receptive language, written language expression, behavioral-social interaction skills, and self-management. The IEP includes goals addressing the same area of concern.
2. The IEP requires the student to be provided with 15 hours weekly of specialized instruction inside of the general education classroom to address reading comprehension skills, math problem-solving skills, written expression, social interaction, and self-management skills; 30 minutes per week of a small group to address social interaction and social problem-solving skills outside of the general education classroom; two hours weekly of specialized instruction for math intervention outside of the general education classroom; 15 minutes weekly of counseling services outside of the general education classroom; and 30 minutes weekly of speech and language therapy as a related service.
3. The student's Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflect that the student displays characteristics of a child with autism which affects her performance in academic subjects (reading comprehension, written language, math problem solving) social interaction skills, self-management as well as her ability to communicate (receptive/expressive language, pragmatics).
4. The IEP requires the student to be provided with instructional support, program modifications, social/behavioral supports, physical/environmental supports, and support from both school personnel and parents to access a modified general education curriculum.
5. On April 24, 2024, the complainant emailed MCPS requesting an IEP meeting due to the student not receiving "proper support for her special needs."
6. On April 24, 2024, MCPS generated a Notice of IEP Team Meeting for May 15, 2024, to conduct a "parent conference" to address the "parent's concerns in the areas of insufficient learning intervention, classroom change, and social and emotional challenges."
7. On May 14, 2024, the complainant emailed the MCPS his "parental input" for the May 15, 2024, IEP meeting.
8. In its written response, the MCPS acknowledges an IEP meeting was held on May 15, 2024, and May 21, 2024; however, there is no prior written notice (PWN) generated from the meetings.
9. On May 21, 2024, the complainant emailed a member of the MCPS IEP team requesting the "finalized IEP" from the May 15, 2024, IEP meeting. There is no documentation that the complainant was provided with an IEP from the May 15, 2024, IEP meeting.
10. On May 22, 2024, a member of the MCPS IEP team responded to the complainant via email stating the IEP team was working on the proposed changes and would be in contact with the complainant later in the week.
11. On June 6, 2024, the complainant emailed a member of the MCPS IEP team, concerned that most of the items he requested to be placed on the IEP were not reflected in the amended draft IEP provided. On June 7, 2024, a member of the MCPS IEP team called the complainant to seek clarification.

12. On June 12, 2024, a member of the MCPS IEP team emailed the complainant to follow up on the “draft IEP” that was provided to the complainant on June 11, 2024, as she wanted to “close it out and send a final draft”. The MCPS IEP team member also provided the complainant with a “video link to join the meeting”, for a meeting to be held on June 13, 2024 “to finalize everything.” There is no documentation that an IEP meeting was held on June 13, 2024.
13. On June 16, 2024, a member of the MCPS IEP team emailed the complainant with a copy of the draft IEP.
14. On June 17, 2024, MCPS generated a PWN referencing the May 15, 2024, IEP meeting. The PWN reflects the IEP team's proposal to review and revise the IEP. The PWN reflects the MCPS IEP team's decision to incorporate several of the complainant's input into supplementary aids and services, self-advocacy goals, self-regulation goals, and self-management goals. The PWN also reflects the complainant's “input on the document items #8, #9, and #10, #13, #14, #15, #18” that was already on the IEP as well as the complainant's “input on the document items #17, #20, #21, and #23” the IEP team determined not to add to the IEP. While the PWN references a numbered document, that document is not a part of the PWN.
15. On June 25, 2024, the MCPS emailed the complainant the student's IEP with a development date of June 18, 2024.
16. The June 18, 2024, amended IEP requires the following supplementary aids, services, program modifications, and supports as additions to the IEP with a “begin date of June 10, 2024, and June 11, 2024”:
  - Visual checklist, daily;
  - Test-taking strategies, when testing;
  - Access to sound-damping headphones, daily;
  - Movement, daily; and
  - Access to quiet space, daily.

The June 18, 2024, amended IEP requires the following special education services:

- Four 50-minute sessions of classroom instruction inside general education, daily - “From 6/14/2024 to 02/27/2025.”
- One 50-minute session of classroom instruction outside general education, daily - “From 6/14/2024 to 02/27/2025.”

The IEP reflects the IEP team removed counseling as a related service.

17. The June 18, 2024, amended IEP reflects the student's social interaction skills goal was updated from the previous IEP. The goal states: “When provided adult modeling positive praise and encouragement (use of a motivational system), small group social skills instruction, preferential seating, and fading adult reminders, and when given opportunities for both structured and unstructured time and spontaneous social interaction with peers, [the student] will effectively (1) initiate new positive peer relationships (“i.e. friends, classmates”) and (2) maintain positive peer relationships (“i.e. friends, classmates”) across 4 out of 5 opportunities, by March 2025.”

18. The June 18, 2024, amended IEP reflects the student's self-management goal was updated from the previous goal. The goal states: "Given strategies to initiate and sustain attention during both structured and unstructured time and spontaneous social interaction, small group instruction, adult proximity, preferential seating, visual cues, verbal reminders, social stories, and noise-cancellation headphones, [the student] will remain on task and work independently with 3 out of 5 trials, by March 2025."
19. The June 18, 2024, amended IEP reflects an additional self-management goal was added from the previous IEP. The goal states: "Given strategies to initiate and sustain attention, small group, adult proximity, visual cues, verbal reminders, and supports (such as visual boundary charts, social stories, fading prompts, and adult modeling), [the student] will independently (1) set and (2) maintain appropriate boundaries (self-advocate and self-regulate herself) in various social situations expressing her needs, setting boundaries, using a coping mechanism to navigate the interaction in 4 out of 5 opportunities, as measured by teacher observations and data collection, by March 2025."
20. There is no documentation that demonstrates that the student was consistently provided special education instruction, the use of supplementary supports, and accommodations since May 15, 2024.
21. There is no documentation the student received a report of the student's progress towards the achievement of the annual math problem-solving, reading comprehension, speech-language pragmatics, speech-language receptive language, written language expression, behavioral-social interaction skills, and self-management goals dated June 13, 2024.
22. From April to June, there is documentation of the MCPS IEP members and MCPS staff communicating with the complainant regarding his concerns and the particular situations affecting the student, which addressed her classroom change and social-emotional challenges.

#### **DISCUSSIONS AND CONCLUSIONS:**

#### **ALLEGATION #1                      PROVISION OF SPECIAL EDUCATION INSTRUCTION, SUPPORTS, AND ACCOMMODATIONS**

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).

Based on Findings of Fact #1, #2, #4, #15, and #20, MSDE finds that the MCPS has not ensured that the student has been provided with the special education instruction, supplementary supports, and accommodations as required by the IEP since May 15, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning the allegation.

#### **ALLEGATION #2                      ADDRESS PARENTAL CONCERNS**

Based on Findings of Fact #5 through 8, #10, #11, #13, #14 through #19, MSDE finds that the MCPS has ensured that the IEP team addressed the parent's concerns, specifically insufficient learning interventions, classroom change, social-emotional challenges, and the delay in receiving the completed IEP since April 24, 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation has not occurred concerning the allegation.

### **ALLEGATION #3**

### **PROVISION OF IEP**

Based on Findings of Fact #8 through #15, MSDE finds that the MCPS did not provide the parent with a copy of the completed IEP document within five business days after IEP team meetings on May 15, 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

Notwithstanding the violation based upon Finding of Fact #15, MSDE finds that the complainant has been provided with the IEP. Therefore, no further student-specific corrective action is required pertaining to this violation.

### **CORRECTIVE ACTIONS AND TIMELINES:**

The IDEA requires that State complaint procedures include those for 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.<sup>1</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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.<sup>2</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### **Student Specific**

MSDE requires the MCPS to provide documentation by September 30, 2024, that the IEP team has convened and determined whether the violation related to the findings in this letter had a negative impact on the student's ability to benefit from the education program. If the team determines that there was a negative impact, it must also determine the amount and nature of compensatory services or other remedy 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 MCPS must ensure that the complainant is provided with written notice of the team's decisions. The complainant maintains the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

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<sup>1</sup> 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.

<sup>2</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.

## School-Based

MSDE requires the MCPS to provide documentation by September 30, 2024, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements under IDEA and COMAR for the provision of the IEP after an IEP team meeting, IEP implementation, and provision of a PWN. The documentation must include a description of how the MCPS will evaluate the effectiveness of the steps taken and monitor to ensure that the violations do not recur.

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 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/sj

c: Dr. Thomas Taylor, Superintendent, MCPS  
Peggy Pugh, Chief Academic Officer, MCPS  
Diana K. Wyles, Associate Superintendent, MCPS  
Eve Janney, Compliance Specialist, MCPS  
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS  
[REDACTED], Principal, MCPS  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Stephanie James, Complaint Investigator, MSDE