

August 22, 2024

[REDACTED]
[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #25-001

Dear Parties:

The Maryland State Department of Education, Division of Early Intervention and 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 on the final results of the investigation.

ALLEGATION:

On July 1, 2024, MSDE received a complaint from [REDACTED], “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) concerning the above-referenced student.

MSDE investigated the allegation that the MCPS has not ensured that the parent was provided with the third quarter progress report for the student toward achieving the annual Individualized Education Program (IEP) goals since April 2024, in accordance with 34 CFR § 300.320.

BACKGROUND:

The student is 14 years old and is identified as a student with Autism under the IDEA. During the 2023- 2024 school year, the student attended [REDACTED] and has an IEP that requires special education instruction and related services.

FINDINGS OF FACT:

1. The IEP, in effect since April 2024 was developed on May 18, 2023, and amended on March 6, 2024. The IEP identifies needs in the areas of Communication, Math Calculation, Math Problem Solving, Reading Comprehension, Written Language Content, Written Language Expression, Written Language Mechanics, Behavioral - Executive Functioning, Behavioral - Self-management, Behavioral - Social Interaction Skills. The IEP requires goals in the areas of Math Calculation, Behavioral - Executive Functioning, Behavioral - Self-management, and Written Language Content. The IEP requires the student to receive three hours of specialized instruction daily inside of the general education classroom and two hours and 15 minutes of

specialized instruction outside of the general education classroom. The IEP further requires that the parent receive reports of the student's progress on annual IEP goals ("progress reports") on a quarterly basis.

2. The report of the student's progress dated April 9, 2024, towards the achievement of the annual academic goals, reflects that the student is "Making sufficient progress to meet goal."
3. The complainant received the student's third-quarter IEP progress report on June 18, 2024.
4. In its written response, the MCPS acknowledges that the parent did not receive the third quarter progress reports in a timely manner.

CONCLUSION:

In this case, the complainant alleges that they did not receive the third-quarter IEP progress report in a timely manner. As a result of the delay, the complainant alleges they were unable to review the student's progress and determine whether an IEP meeting was necessary to discuss the student's needs.

Based on Findings of Fact #1 through #4, MSDE finds that the MCPS has not ensured that the parent was provided with the third quarter progress report for the student toward achieving the annual IEP goals in April 2024, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation occurred concerning the allegation.

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.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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.² Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the MCPS to provide documentation by October 25, 2024, that the IEP team has convened and determined whether the violation related to the delay of the provision of the progress report to the parents had a negative impact on the student's ability to benefit from the education program. If the team determines that there

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.

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 MCPS must ensure that the complainants are provided with written notice of the team's decisions. The complainants maintain 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 MCPS to provide documentation by December 13, 2024, demonstrating that it has monitored 25 randomly selected students at [REDACTED] to determine whether their progress reports were provided to parents on a timely basis. Documentation must include both the progress reports and documentation that they were sent to the parents. Full compliance is required.

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

AL.H/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], [REDACTED], Principal, MCPS
Dr. Antoine Hickman, Assistant State Superintendent, Division of Early Intervention and Special Education Services, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Nicol Elliott, Section Chief, Monitoring and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE