

August 30, 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: #25-004

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 on the final results of the investigation.

**ALLEGATIONS:**

On July 1, 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) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The MCPS did not ensure that the student has been provided with the special education instruction as required by the Individualized Education Program (IEP) since July 1, 2023, in accordance with 34 CFR §§ 300.101 and .323.
2. The MCPS did not consider a private evaluation provided by the parent; did not develop an IEP that addresses the student’s identified reading fluency, written expression, and fine motor needs; nor address the parent's concerns regarding the development of the IEP since July 2023, in accordance with 34 CFR § 300.324.
3. The MCPS did not provide the parent with a copy of the IEP document within five business days after an IEP meeting since July 1, 2023, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.
4. The MCPS did not provide the complainant with prior written notice of the team’s decision to reject the request to provide the student with evidence-based interventions in the area of reading and math as discussed in an IEP team meeting since July 1, 2023, in accordance with 34 CFR § 300.503.

## **BACKGROUND:**

The student is seven years old and is identified as a student with Multiple Disabilities (Specific Learning Disability and Other Health Impairments) under the IDEA. During the 2023-2024 school year, the student was parentally placed at the [REDACTED] [REDACTED]<sup>1</sup> and has an IEP that requires special education instruction and related services.

## **FINDINGS OF FACT:**

1. On July 7, 2023, MCPS issued a Notice of IEP Team Meeting for an IEP meeting scheduled for July 17, 2023, to develop an IEP for the student.
2. On July 17, 2023, the IEP team met for the third time to continue an initial IEP meeting. The Prior Written Notice (PWN) generated after the meeting reflects that the IEP team changed the student's disability code to "multiple disabilities." The IEP team reviewed various data sources, including DIBELS<sup>2</sup>, MAP<sup>3</sup>, iReady<sup>4</sup> reports, teacher updates, and a private neuropsychological evaluation, to develop the initial IEP, which included accommodations, aids, services, goals, and objectives. During the IEP meeting, the complainant requested that a writing intervention be included in the student's IEP and additional instructional time outside the classroom be added due to the academic and emotional needs of the student. However, the IEP team determined his writing needs could be addressed within the classroom.

The IEP team reviewed the Least Restrictive Environment (LRE) and proposed a Home School Model as the most appropriate setting for implementing the student's IEP. The parents disagreed with the Home School Model and requested a more restrictive environment; however, the IEP team maintained that the Home School Model was the appropriate LRE.

3. The PWN indicated that the IEP team considered the private neuropsychological evaluation.
4. The July 17, 2023, IEP reflects identified needs in the areas of Math Calculation, Math Problem Solving, Reading Phonemic Awareness, Reading Phonics, Speech-Language Articulation, Speech-Language Receptive Language, Spelling (Encoding), Written Language Expression, Written Language Mechanics, Attention and Executive Functioning. The IEP includes goals in the areas of concern.
5. The July 17, 2023, IEP requires:
  - Two hours of specialized instruction weekly outside of the general education classroom in a small group for explicit reading and writing instruction;
  - Two hours of specialized instruction weekly outside of the general education classroom in a small group for explicit math instruction;
  - Five hours of specialized instruction weekly inside the general education classroom for reading and writing support;

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<sup>1</sup> Prior to the student attending the [REDACTED], the student attended [REDACTED].

<sup>2</sup> DIBELS (Dynamic Indicators of Basic Early Literacy Skills) is a series of short tests designed to evaluate key literacy skills among students in kindergarten through 8th grade, such as phonemic awareness, alphabetic principle, accuracy, fluency, and comprehension.

<sup>3</sup> The Measures of Academic Progress (MAP) assessment is a computer-based test that measures a student's academic achievement and growth in math, reading, language usage, and science against grade-level standards.

<sup>4</sup> i-Ready is a combination of an online instruction program and a diagnostic test for students in kindergarten through eighth grade designed to help teachers understand a student's strengths and weaknesses, and to personalize their learning.

- Three hours and 45 minutes of specialized instruction weekly inside of the general education classroom for math support and;
  - 30 minutes a week of speech- language services.
6. The July 17, 2023, IEP's Present Levels of Academic Achievement and Functional Performance (PLAAPF) reflect that the student's specific learning disability impacts his reading decoding (phonological awareness, phonics), written expression (encoding), and math calculations, and affects his ability to read words by identifying letters and their sounds.
7. The July 17, 2023, IEP required the following goals to address reading and math needs:

**Spelling (Encoding)**

"Given an evidence-based instruction with fidelity, visual support, adult support, adult modeling, immediate feedback, manipulatives, and repeated practice, [the student] will spell and write grade-level words using phonetic and sight word strategies in 4/5 trials measured by observations by 7/16/2024."

**Reading Phonics**

"Given an evidence-based intervention with fidelity, visual support, adult support, adult modeling, immediate feedback, manipulatives, and repeated practice, [redacted] will be able to apply grade-level phonics and word analysis skills in decoding words in 4/5 trials measured by observations by 7/16/2024."

**Reading Phonemic Awareness**

"Given an evidence-based intervention with fidelity, visual support, adult support, adult modeling, immediate feedback, manipulatives, and repeated practice, [redacted] will be able to identify, manipulate, and blend individual sounds (phonemes) in spoken words including rhyming words, and simple syllable segmentation in 4/5 trials measured by observations by 7/16/2024."

**Math Calculation**

"Given an evidence-based intervention with fidelity, manipulatives, place value charts, adult modeling, positive feedback, and direct instruction, [redacted] will be able to identify addition as putting together and adding to and understand subtraction as taking apart and taking from in 4 out of 5 trials, measured by classroom observation, by 7/16/2024."

**Math Problem Solving**

"Given an evidence-based intervention with fidelity, manipulatives, place value charts, adult modeling, positive feedback, and direct instruction, [redacted] will solve basic math operations (addition, subtraction, multiplication, division) by accurately solving single-step word problems with numbers within 20, in 4 out of 5 trials, measured by classroom observation, by 7/16/2024."

8. The July 17, 2023, IEP required the student to be provided with instructional support, program modifications, social/behavioral supports, and physical/environmental supports, access to the general education curriculum.
9. There is no documentation to support the complainant's allegation that fine motor was an identified need.

10. On July 27, 2023, the complainant's attorney sent an email to MCPS containing a "10-day letter" and informed MCPS that they would await a response to the substance of the letter and their request for compensatory services. The "10-day letter" reflects that the complainant was seeking private placement for the student due to long-standing concerns about his ability to fully access his education, particularly in reading and mathematics. These concerns stem from a comprehensive evaluation that identified the student with multiple disabilities, including ADHD, dyslexia, and specific learning disorders. The complainant stated their disagreement with MCPS's approach, citing the rejection of critical data, delays in developing and finalizing the IEP, and disagreements over the adequacy of proposed interventions and services, particularly in reading, math, and occupational therapy. The complainant asserts that the student requires full-time specialized services, which the current school cannot provide. Consequently, the complainant rejected the IEP, enrolled the student in the [REDACTED] for the 2023-2024 school year, and requested that MCPS fund this placement and provide compensatory services to address the delays and inadequacies in his previous education plan.
11. There is no documentation that the MCPS responded to either the complainant or the complainant's attorney.
12. On August 25, 2023, the MCPS provided the complainant with a copy of the July 17, 2023, IEP.
13. On September 5, 2023, the student started school at the parentally placed private school. MCPS did not provide special education services to the student.
14. In its written response, the MCPS acknowledged that the complainant did not receive a copy of the IEP within five days following the IEP meeting held on July 17, 2023.

#### **CONCLUSIONS:**

#### **ALLEGATION #1 PROVISION OF SPECIAL EDUCATION INSTRUCTION**

Based on Finding of Fact #13, MSDE finds that the student was parentally placed since September 2023 at a private school. Therefore, the MCPS was not required to ensure that the student was provided with the special education instruction as required by the IEP since July 1, 2023<sup>5</sup>, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation did not occur concerning the allegation.

#### **ALLEGATION #2 IEP THAT ADDRESSES THE STUDENT'S NEEDS/PRIVATE EVALUATION/PARENT CONCERNS/FINE MOTOR**

Based on Findings of Fact #1 through #8, MSDE finds that the IEP team did consider the private neuropsychological evaluation in developing the IEP finalized at the July 17, 2023, IEP team meeting in accordance with 34 CFR § 300.324. While the IEP team is required to consider the private evaluation, the IEP team is not required to adopt any of its recommendations. Therefore, this office finds that a violation did not occur concerning the allegation.

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<sup>5</sup> The July 17, 2023, IEP reflects the IEP team deferred the Extended School Year (ESY) decision.

Based on the Findings of Fact #3 through #6, MSDE finds that the MCPS did develop an IEP that addresses the student's identified reading fluency and written expression needs of the student in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning the allegation.

Based on Finding of Fact #9, MSDE finds that fine motor is not an identified need requiring MCPS to address it on the student's IEP since July 17, 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

Based on the Findings of Fact #3 through #8, MSDE finds that the MCPS addressed the parent's concerns regarding the development of the IEP since July 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning the allegation.

### **ALLEGATION #3                      PROVISION OF IEP DOCUMENT FIVE DAYS AFTER AN IEP MEETING**

Based on Findings of Fact #12 and #14, MCPS acknowledges they did not provide the parent with a copy of the IEP document within five business days after an IEP meeting since July 1, 2023, 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 #12, MSDE finds that the MCPS provided the parent with a copy of the IEP on August 25, 2023, therefore, no further student-specific corrective action is required.

### **ALLEGATION #4                      PROVISION OF PRIOR WRITTEN NOTICE OF THE IEP DECISIONS**

Based on Findings of Fact #2, MSDE finds that there is no documentation that the IEP team discussed evidence-based interventions in the area of reading and math that would trigger the requirement for the MCPS to provide the complainant with prior written notice of the team's decision to reject the request made at an IEP team meeting since July 1, 2023, in accordance with 34 CFR §300.503. Therefore, this office finds that a violation did not occur concerning the allegation.

### **CORRECTIVE ACTION AND TIMELINE:**

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>6</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.

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<sup>6</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.

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>7</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### School-Based

MSDE requires the MCPS to provide documentation by October 25, 2024, demonstrating that it has conducted professional development for [REDACTED] staff on the requirements for providing parents with completed IEPs in a timely fashion and ensuring that the violation does 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  
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS  
[REDACTED], [REDACTED], Principal, MCPS  
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

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<sup>7</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.