

October 4, 2024

Ms. Jessica Williams  
Education Due Process Solutions, LLC  
1296 Cronson Boulevard, #4071  
Crofton, Maryland 21114

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

RE: [REDACTED]  
Reference: #25-022

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 August 6, 2024, MSDE received a complaint from Ms. Jessica Williams, 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 has not ensured the student’s IEP contains special education services and supplementary aids and services that are based on peer-reviewed research to the extent practicable in order for the student to advance appropriately toward attaining his annual academic and behavior goals since August 2024<sup>1</sup>, in accordance with 34 CFR § 300.320(a)(4).
2. The MCPS has not ensured that the student's progress towards achieving the annual Individualized Education Program (IEP) goals was measured in the manner required by their IEP, since April 2024, in accordance with 34 CFR § 300.320.
3. The MCPS has not ensured that the student was provided with the support of a dedicated adult assistant, as required by their IEP, since August 2023, in accordance with 34 CFR §§ 300.101 and .323.

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<sup>1</sup> The Initiation Letter reflects “since August 2024” in error. The investigation included allegations and supporting documentation since August 2023.

4. The MCPS did not ensure that the student's IEP included positive behavioral interventions and strategies to address the interfering behaviors, since August 2023, in accordance with 34 CFR § 300.324 and COMAR 13A.05.01.08A(4).
5. The MCPS did not ensure that the IEP team reviewed and revised, as appropriate, the student's IEP to address the lack of expected progress toward achieving the IEP goals, since August 2023, in accordance with 34 CFR § 300.324.

#### **BACKGROUND:**

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

#### **FINDINGS OF FACT:**

#### **ALLEGATIONS #1 and #3 IEP BASED ON PEER REVIEWED RESEARCH AND PROVISION OF DEDICATED AIDE**

1. The IEP in effect at the start of the 2023-2024 school year was developed on August 18, 2023. The IEP requires that the student be provided with support in the areas of cognitive, math problem-solving, reading comprehension, speech and language/receptive language, written language content, and self-management. The IEP requires goals in the areas of math problem-solving, reading comprehension, speech and language/receptive language, written language content, and self-management. The IEP team determined that the student required two hours and 15 minutes daily of specialized instruction outside of the general education classroom, two hours and 15 minutes daily of specialized instruction inside of the general education classroom, and two hours and 15 minutes monthly of speech-language services outside of the general education classroom as a related service.

The IEP reflects that the student will participate daily in a self-contained resource class to address his needs in executive functioning, organization, work completion, prioritization, and goal setting. Additionally, the student will attend a second self-contained resource class five days a week to reinforce learning from his Algebra class. The student will also participate in a self-contained reading intervention class.

The IEP reflects that during special education classroom instruction, the student will participate in inclusion classes with two adults present—one general education teacher and one special education staff member in all academic subjects.

2. The IEP requires the student to be provided with instructional support, program modifications, social/behavioral support, and physical/environmental support, to access the general education curriculum. The IEP reflects that the "student requires daily adult support from the general education teacher, instructional assistant, or special education teacher for frequent repeating and paraphrasing information while answering comprehension questions in reading, as needed."
3. The IEP further reflects that, for social and behavioral support, the student requires daily "access to adult support for monitoring, prompting, and assistance with executive functioning" from an instructional assistant or special education classroom teacher. There is no documentation that the student requires the support of a dedicated adult assistant.

4. The August 18, 2023, IEP's Present Levels of Academic Achievement and Functional Performance (PLAAFP) in the area of self-management reflects the student is noted to arrive to class on time with most of his materials and has developed an effective system of organization, making it easy for him to locate papers in his binder. While he follows class routines and often begins tasks with a single prompt, he requires additional prompts to stay on task. The IEP reflects that the student also needs reminders to slow down when completing assignments and to take breaks during longer tasks or assessments. The student needs support to ask clarifying questions and often does not review his work, leading to incomplete assignments.
5. The August 18, 2023, IEP reflects the student's academic goal in the area of self-management. The goal states: "By the end of the IEP cycle, [with] fading adult prompts and cues, and supports for organization and work management, [the student] will demonstrate self-advocacy in managing his schoolwork and time management expectations to build independent work-study habits, observed by staff in 3 out of 4 trials."
6. On August 18, 2023, the IEP team convened to conclude the annual IEP meeting from June 12, 2023. The Prior Written Notice (PWN) generated after the meeting reflects that the students' classes would consist of being with general education peers and receiving special education support. The parent requested small group to be added to the supplementary aids page and the IEP team determined they would include small group to supplementary aids on the IEP. The PWN furthermore reflects that the IEP team "considered all current data from the student's previous school as well as parental and student input" in making the decisions for the August 2023 IEP.
7. There is documentation that the student's IEP contains special education services and supplementary aids and services that are based on peer-reviewed research.

## **CONCLUSIONS:**

### **IEP based on peer-reviewed research**

Based on Findings of Fact #1, #2, #3, #5, and #7, MSDE finds that the MCPS has ensured the student's IEP contains special education services and supplementary aids and services that are based on peer-reviewed research to the extent practicable in order for the student to advance appropriately toward attaining his annual academic and behavior goals since August 2024, in accordance with 34 CFR § 300.320(4). Therefore, this office finds that a violation did not occur concerning the allegation.

### **Provision of dedicated aide**

Based on Findings of Fact #1 through #3, #6, #21, and #22, MSDE finds that the MCPS was not required to provide the student with the support of a dedicated adult assistant, as required by the IEP, since August 2023, in accordance with 34 CFR §§ 300.101 and .323.

Based on Findings of Fact #21, #22, and #23, MSDE finds that the MCPS has implemented the provisions of a dedicated aide. Therefore, this office finds that a violation did not occur concerning the allegation.

## **Allegation #2    REPORTING OF PROGRESS**

8. The progress reports dated October 31, 2023, and January 26, 2023, in the area of written language content, reflect that the student was "Making sufficient progress to meet goal." However, they also reflect that the student required teacher support, including assistance with developing and organizing ideas, prompting to help with writing, redirection, breaks, and multiple opportunities to complete assignments. "Despite this support, the student showed resistance to completing writing assignments in their entirety."
9. The report of the student's progress dated April 9, 2024, towards the achievement of the annual written language content, reading comprehension, and math problem-solving goal reflects that the student is "Making sufficient progress to meet goal." Specifically, the progress report reflects the goals were measured in the manner required by the IEP.
10. The report of the student's progress dated April 9, 2024, towards the achievement of the annual math problem-solving, and self-management reflects that the student is "Making sufficient progress to meet goal." However, the progress report reflects the goals were not measured in the manner required by the IEP.
11. The report of the student's progress dated June 13, 2024, towards the achievement of the written content annual goals reflects that the student is "Not making sufficient progress to meet goal (IEP team needs to meet to address insufficient progress)." The progress report reflects, that the student achieved three objectives between October 2023 and April 2024 but did not meet the fourth, which involves revising and editing work based on feedback. The IEP progress report, furthermore, reflects that during the 4th quarter, the student's work completion and willingness to correct assignments declined despite the support, teacher feedback, extended time, and prompting. It is noted the student did not complete key English assignments, stating in an IEP meeting that a "D" was "good enough." His teachers note strong academic abilities but express concerns over the student's behaviors of refusing to complete or revise work, even with repeated prompting and support. His writing is considered a strength in areas like ideas, organization, and sentence fluency.
12. The report of the student's progress dated June 13, 2024, toward the achievement of the reading comprehension annual goal reflects that the student "achieved" the goal. Specifically, the progress report reflects the goals were measured in the manner required by the IEP.
13. The report of the student's progress dated June 13, 2024, toward the achievement of the math problem-solving annual goal reflects that the student "achieved" the goal. However, the progress report reflects the goals were not measured in the manner required by the IEP. The progress report reflects, that during the 4th quarter, the student's declining work completion and unwillingness to correct incomplete assignments impacted his grades, not his ability to grasp the content. His teachers emphasize that the student needs to focus on accurately completing longer, more complex math operations. While he demonstrates mastery of skills in isolation, he often skips steps or makes errors when combining skills, leading to incorrect answers.

14. The report of the student's progress dated June 13, 2024, towards the achievement of the math problem solving (second goal) annual goals reflects that the student is "Not making sufficient progress to meet goal (IEP team needs to meet to address insufficient progress)." The progress report reflects, "[the student] needs to focus on accurately completing longer, more complex math operations. He is often able to demonstrate mastery of skills in isolation, but when asked to combine skills to answer more complex questions, he will skip a step or complete it incorrectly, leading to an incorrect final answer."
15. The report of the student's progress dated June 13, 2024, toward the achievement of the annual self-management goal reflects that the student "achieved" the goal. However, the progress report reflects the goals were not measured in the manner required by the IEP. The progress report reflects that "during the fourth quarter [the student's] overall grades and work submission rates declined. He did not complete many critical writing assignments or assessments for his classes despite being given direct feedback, teacher check-ins, extended time and support in resource and during lunch, teacher notes, exemplars, daily prompting, and conferencing with teachers."

#### **DISCUSSION AND CONCLUSION:**

An IEP must include a statement of measurable annual goals that includes a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided (34 CFR §§ 300.320).

Based on Findings of Fact #10, #13, and #15, MSDE finds that the MCPS has not ensured that the student's progress towards achieving the annual IEP goals was measured in the manner required by their IEP, since April 2024, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation occurred concerning the allegation.

#### **ALLEGATION #4 POSITIVE BEHAVIOR INTERVENTIONS**

16. On February 7, 2024, the IEP team convened to address parental requests for additional data and updated academic testing. The parent's concerns about grades, work completion, instruction, one-to-one paraprofessional support, and technology use were discussed. During the IEP meeting, the team proposed to complete academic testing using the Woodcock-Johnson to assess the student's skills in the areas of reading, writing, and mathematics. The complainant also suggested conducting a Functional Behavior Assessment (FBA) to understand why the student isn't consistently completing work. The MCPS rejected the request, stating the functions of the student's behaviors are well documented and that an FBA wouldn't provide new insights. The complainant also proposed using tangible incentives, such as access to computer games, to motivate the student. An IEP team member agreed to meet with the student to explore incentive options, which the parent approved.
17. On May 22, 2024, the IEP team met for a periodic review to discuss the results of assessments recommended during the February 7, 2024, IEP meeting. The team reviewed the student's current grades, self-management data, the updated Woodcock-Johnson IV assessment, MAP-M data, classroom-based math assessments, and input from teachers, the student, and the parent.
18. During the May 22, 2024, IEP meeting, the complainant requested an FBA be completed due to the student's "resisting support", however, the PWN does not reflect this as an area of concern from the school team. The PWN reflects the MCPS staff stated that "it is not possible to conduct one so late in the year and we do not have the necessary people at the meeting to make that decision. This

conversation will be tabled until next fall when [the student] is due for a re-evaluation meeting.” The parent and complainant also requested the student be given a timer as a supplementary aid to keep him on track with his assignments. It was determined the IEP team would add that to the supplementary aids of the draft IEP.

### **CONCLUSION:**

Although the student was making sufficient progress for the first three quarters of the IEP cycle, he was not making sufficient progress on all of his goals for the fourth quarter. The IEP team appropriately convened and determined that the student’s behavior of lack of motivation were interfering with his work completion. The team discussed and agreed to explore positive behavior supports (incentives), however, there is no documentation that they were pursued or discussed further.

Based on Findings of Fact #1, #4, #8, #11, #12, #13, #15, #16, #18, #21, and #22, MSDE finds that the MCPS did not ensure that the student’s IEP included positive behavioral interventions and strategies to address the interfering behaviors, since August 2023, in accordance with 34 CFR § 300.324 and COMAR 13A.05.01.08(4). Therefore, this office finds that a violation did occur concerning the allegation.

### **ALLEGATION #5 ADDRESS THE LACK OF PROGRESS TOWARD IEP GOALS**

19. On August 19, 2024, and August 27, 2024, the IEP team convened for a reevaluation of the student determine eligibility under IDEA and to update the student’s annual IEP. The IEP team determined that the student continued to be eligible for special education services with the disability code of Autism.
20. The IEP team added two new self-management goals to the student’s IEP to address areas where he showed a decline in progress during the 4th quarter. These goals focus on improving his ability to track and organize homework and classwork assignments, as well as enhancing his attentiveness, active listening, and ability to get back on task during class instruction. The IEP team removed the second math problem-solving goal and the speech and language receptive language goals. For the written language goal, the parent wanted to focus on complex and compound sentences, however, the IEP team made it an objective instead, as it is not standards-aligned.
21. During the IEP meeting, the parent requested the use of a behavioral specialist, which was rejected by the IEP team. The parent expressed dissatisfaction with how the resource class was managed the previous year and believed the student needed more adult support, including a one-to-one paraprofessional, for more prompting and that the student needed one to be successful with his executive functioning needs during class. The parent raised concerns about the student’s motivation and mental health, asking for continued participation in the “Bridges to Wellness program” and inquired about psychotherapy during the school day. The IEP team proposed adding an assignment tracking tool with direct instruction in its use during students’ resource class. The IEP team also revised the supplementary aid by removing "Access to" from the phrase about adult support for frequent repeating of instructions.
22. The August 27, 2024, IEP reflects the student continues to require “daily adult support from the instructional assistant, general education teacher, or special education teacher for frequent repeating and paraphrasing information while answering comprehension questions, as needed and “daily adult support for monitoring, prompting, and supporting executive functioning.” The IEP reflects the

“student will receive adult support to support his accommodation and supplementary aids, to include but are not limited to prompting, attentional supports, work completion, assist in facilitating timing of appropriate breaks, repeated directions, reteaching and reviewing support in all academic classes.” Additionally, the student is provided with strategies to help initiate and maintain attention.

23. There is documentation the student has received 1:1 support during the 2024-2025 school year.

### **CONCLUSION:**

Based on Findings of Fact #4, #11, #14, #19 through #22, MSDE finds that the MCPS has ensured that the IEP team reviewed and revised, as appropriate, the student’s IEP to address the lack of expected progress toward achieving the IEP goals, since August 2023, in accordance with 34 CFR § 300.324. 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>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. Nicole Green, Compliance Specialist, Family Support and Dispute Resolution, MSDE, to ensure the effective implementation of the action.<sup>3</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

### **Student-Based**

MSDE requires the MCPS to provide documentation by December 16, 2024, that the IEP team has convened to determine whether the violations related to the failure to provide positive behavior interventions and appropriately report progress on IEP goals 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 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.

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<sup>2</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>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.

The MCPS must ensure that the parents are provided with written notice of the team's decisions. The parents 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 the MCPS to provide documentation by December 31, 2024, that it has provided professional development to [REDACTED] staff on the proper procedures of progress reporting.

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  
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