

October 18, 2024

[REDACTED]  
[REDACTED]  
[REDACTED]

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

RE: [REDACTED]  
Reference: # 25- 040

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 22, 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 was consistently provided with the special education services, supplementary aids, services and accommodations, and implementation of the Behavior Intervention Plan (BIP), as required by the Individualized Education Program (IEP) during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
2. The MCPS has not ensured that an observation of the student by the LEA was conducted in response to a request by the parent when conducting a reevaluation of the student since May 2024, in accordance with 34 CFR §§ 300.303 - .311 and COMAR 13A.05.01.06.

**BACKGROUND:**

The student is six years old and is identified as a student with other health impairment (OHI) under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**ALLEGATION #1                      PROVISION OF SPECIAL EDUCATION SERVICES, SUPPLEMENTARY AIDS, SERVICES, AND ACCOMMODATIONS, AND THE IMPLEMENTATION OF THE BIP**

**FINDINGS OF FACT:**

1. The student's IEP in effect at the beginning of the 2023- 2024 school year was developed on August 25, 2023. The IEP requires the provision of five hours weekly of special education services inside the general education classroom to monitor the student's behaviors.

The IEP requires the provision of supplementary aids, services, and accommodations:

- Periodic use of timers;
- Periodic visual and or verbal cues/supports;
- Periodic communicating clear limits and boundaries;
- Periodic reflective and restorative practices;
- Periodic advance preparation for schedule changes;
- Periodic social stories to target a specific behavioral skill;
- Periodic provision of manipulatives and/or sensory activities to promote listening and focusing skills;
- Periodic access to a separate location for social emotional problem solving;
- Daily Implementation of behavior contract;
- Periodic frequent or scheduled breaks;
- Daily adult support;
- Periodic adult modeling;
- Periodic coping strategies visual menu/ calm down box;
- Periodic social skills training;
- Periodic provision of frequent changes in activities or opportunities for movement;
- Periodic strategies to initiate and sustain attention;
- Periodic use of positive/concrete reinforcers;
- Periodic flexible seating options (chair, carpet, cushion etc.); and
- Periodic preferential seating.

2. The student's IEP developed on May 29, 2024, requires the provision of five hours weekly of special education services inside the general education classroom to monitor the student's behaviors.

The IEP requires the provision of supplementary aids, services, and accommodations:

- Small group;
- Reduce distractions to others;
- Periodic visual and or verbal cues/supports;
- Periodic provision of manipulatives and/or sensory activities to promote listening and focusing skills;
- Periodic communicating clear limits and boundaries;
- Periodic reflective and restorative practices;
- Periodic advance preparation for schedule changes;
- Periodic social stories to target a specific behavioral skill;
- Periodic access to a separate location for social emotional problem solving;
- Daily Implementation of behavior contract;
- Periodic frequent or scheduled breaks;

- Daily adult support;
- Periodic adult modeling;
- Periodic coping strategies visual menu/ calm down box;
- Periodic provision of frequent changes in activities or opportunities for movement;
- Periodic strategies to initiate and sustain attention;
- Periodic use of positive/concrete reinforcers;
- Periodic flexible seating options (chair, carpet, cushion etc.); and
- Periodic preferential seating.

The IEP requires the implementation of a BIP.

3. There is documentation that the student was provided with the special education services, supplementary aids, services and accommodations, and implementation of the BIP, as required by the IEP during the 2023- 2024 school year.

**CONCLUSION:**

Based upon the Findings of Fact #1 through #3, MSDE finds that the MCPS did ensure that the student was consistently provided with the special education services, supplementary aids, services and accommodations, and implementation of the BIP, as required by the IEP during the 2023- 2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred concerning this aspect of the allegation.

**ALLEGATION #2                      OBSERVATION OF THE STUDENT**

**FINDINGS OF FACT:**

4. On May 1, 2024, and May 29, 2024, the IEP team convened to conduct re-evaluation, decide if additional assessments were required, and review or revise the student’s IEP as appropriate.

There is no documentation that an observation of the student was a requirement of the re-evaluation of the student.

5. On May 29, 2024, a Notice and Consent for Assessment document was created. This document does not reflect that an observation of the student was required.
6. On May 11, 2024, the complainant emailed the MCPS. The email reflects that the complainant was requesting to have an observation conducted by a parent provided educational consultant.
7. On May 17, 2024, the MCPS responded to the complainant. The email reflects that the MCPS informed the complainant that when a parent provided educational consultant conducts an observation of a student, an MCPS staff member accompanies the observer.

**CONCLUSION:**

In this case, the complainant alleges that the MCPS did not provide him with a copy of the observation they completed on May 17, 2024. While an MCPS staff member accompanied the parent provided educational consultant and took notes, they had no obligation to provide the parent with those notes, since it was not an agreed upon component of the student's reevaluation.

Based upon the Findings of Fact #4 through #7, MSDE finds that the MCPS was not required to ensure that an observation of the student by the LEA was conducted in response to a request by the parent when conducting a reevaluation of the student since May 2024, in accordance with 34 CFR §§ 300.303 - .311 and COMAR 13A.05.01.06. Therefore, this office does not find a violation occurred concerning this aspect of the allegation.

**TIMELINE:**

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 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/sd

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