

November 12, 2024

[REDACTED]

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

RE: [REDACTED]  
Reference: #25-044

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 School (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 that the parent was provided with reports of quarterly progress toward achieving the annual IEP goals for the third and fourth quarters of the 2023-2024 school year, in accordance with 34 CFR § 300.320.
2. The MCPS did not ensure that the student’s personally identifiable information remained confidential during the 2023-2024 school year, in accordance with 34 CFR § 300.610. Specifically, the complainant alleges that the student’s confidential information was revealed by the MCPS special education supervisor, the speech therapist and in the honors physics class.
3. The MCPS did not ensure that the student was provided with the supplementary aids, services, program modifications, and supports required by the IEP during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Specifically, the complainant alleges that the student did not receive IEP support in the Honors English, Honors Precalculus, and Honors Physics classes.
4. The MCPS did not follow proper procedures when responding to a request for an IEP team meeting during the 2023-2024 school year, in accordance with 34 CFR §300.503.

5. The MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at IEP team meetings during the 2023-2024 school year at least five (5) business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
6. The MCPS did not ensure that the IEP team convened to review the student's IEP during the 2023-2024 school year in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR §300.324.
7. The MCPS did not follow proper procedures when amending the student's IEP in September 2023, in accordance with 34 CFR § 300.324.
8. The MCPS did not ensure that a comprehensive psychological or speech evaluation was conducted within required timelines since October 2023, in accordance with 34 CFR § 300.303 and COMAR 13A.05.01.06.
9. The MCPS did not ensure that IEP team meeting scheduled for January 30, 2024, occurred at a mutually agreed upon time, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.
10. The MCPS did not provide the parent with an accurate, complete, and timely prior written notice (PWN) of the IEP team decisions made at the February 16, 2024, IEP meeting, in accordance with 34 CFR § 300.503.
11. The MCPS has not ensured access to the educational record in response to a request on February 16, 2024, in accordance with 34 CFR § 300.613. Specifically, the complainant alleges that she was not provided access to review test protocols.

**BACKGROUND:**

The student is 17 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. During the 2023-2024 school year, the student attended [REDACTED] ([REDACTED]). In March 2024, the student transferred to [REDACTED] ([REDACTED]). The student has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACT:**

1. On September 13, 2023, the IEP team convened for a "periodic amended IEP meeting." The prior written notice (PWN) generated after the meeting reflects that the IEP team "suggested holding a reevaluation meeting to determine if [the student's] social/emotional concerns [were] a current area of impact." The IEP team considered reinstating the impact statement from student's June 2022 IEP but determined that the current impact statement aligned with the June 2022 IEP's impact. The team included "written clear due dates and deadlines" and "reduced workload when mastery can be demonstrated with fewer problems" to the student's supplementary aids and services. The PWN reflects the team discussed when the student "...could receive additional supports with his honors level classes," and planned to hold an IEP meeting to discuss a partial day schedule for the student as well as discuss his reevaluation.

The PWN does not reflect a discussion to remove from the IEP social-emotional behavioral as an area affected by the student's disability.

2. On September 13, 2023, the IEP team convened to amend the IEP developed on May 31, 2023. The IEP reflects that the student's primary disability is OHI, with reading comprehension, speech-language (expressive language), written language expression, organization, and self-management as the areas affected by the disability. The area of social-emotional/behavioral was removed as an area of impact. The IEP reflects May 30, 2024, as the projected annual review date; October 11, 2022, as the most recent evaluation date; and October 10, 2025, as the projected evaluation date.

The present levels of academic achievement and functional performance (PLAAFP) reflected that the student was performing on a "7<sup>th</sup>/8<sup>th</sup> grade" instructional grade level in reading comprehension, an "8<sup>th</sup> grade" instructional grade level in written language expression, "below age-level expectations" in speech-language expressive language, and "below expectancy" in self-management and organization.

The PLAAFP data in reading comprehension reflected the student's testing data from the fall of 2020 through spring of 2022, and qualitative data from the winter and spring of 2023. The PLAAFP data in written language expression reflected testing data for the student from fall 2022 and winter and spring 2023.

The following instructional and assessment accommodations were required by the IEP:

- Graphic organizer;
- Small group;
- Notes and outlines;
- ELA/Literacy selected response speech-to-text;
- ELA/L constructed response speech-to-text;
- Monitor test response; and
- Extended time (2.0x).

The supplementary aids, services, program modifications, and supports required by the IEP in all academic classes were as follows:

- Reduced workload when mastery can be demonstrated with fewer problems;
- Checks for understanding to be sure the student knows and understands the written and oral directions that are provided and required to complete a task;
- Frequent and/or immediate feedback, daily;
- Repetition of written and oral directions, daily;
- Text to speech;
- Speech to text;
- Limit amount to be copied from board, daily;
- Provide student with hardcopy of all classwork and assignments, daily;
- Communicate clear written due dates and deadlines, daily;
- Encourage the student to annotate to visualize what is happening within a text, daily;
- Encourage the student to visualize as he is reading and articulate something about the text, daily;
- Advance notification for testing, weekly;
- Provision of graphic organizers to assist with multi-step assignments and organization of content material, weekly;
- The student will verbalize his answers before written, daily;
- Provide student with a copy of student/teacher notes, daily;
- Provide sentence starters for written work; alternative ways to demonstrate-knowledge, as needed;

- Chunking of assignments, daily;
- Access to trusted adult when feeling anxious, stressed, or overwhelmed;
- Access to trusted adult, (counselor, case manager, teacher) to aide with accessing supports that promote organization and assignment completion, weekly;
- Preferential seating, daily; and
- Remind the student to access his reading supports, (i.e., text to speech, audio books, videos connected to novels).

The IEP required the following IEP goals:

- Self-management: “By May 2024, provided no more than two prompts, [the student] will maintain attention to task during whole class instruction, guided practices and independent work during 4 out of 5 trials, in five out of seven classes, based on teacher reports and observation logs over one marking period.”

This goal is not measurable as written.

- Organization: “By May 2024, [the student] will take actionable steps, (speaking with teacher, use of electronic or paper organizer) to complete 6 out of 7 assignment/course requirements in five out of seven courses over one marking period, provided clear due dates and deadlines and use of extended time.”

This goal is not measurable as written.

- Speech and Language Expressive Language: “By May 2024, [the student] will make an inference when presented with a short story, identify and problem solve a social setting, comprehend spatial concepts and recall details in a short story given visual and/or verbal cue, 4 out of 5 opportunities, for 5 data collections.”
- Written Language Expression: “By May 2024, given speech to text, use of graphic organizers, extended time, [the student] will develop informative/explanatory text, on 3 out of 4 trials with a grade of 85% or better on class assignments over one marking period.”
- Reading Comprehension: “By May 2024, given grade-level readings and text-to-speech, [the student] will accurately identify vocabulary to cite strong and thorough textual evidence to support analysis of what the text says as evidenced by 4 out of 5 assignments and/or assessments earning 90% or better over one marking period.”

The IEP states that the complainant will be notified of the student’s progress toward the IEP goals quarterly.

The IEP requires the following special education instruction:

- Five, 50-minute sessions of special education classroom instruction inside general education, daily;
- One, one-hour session of special education instruction outside general education, monthly; and
- Two, 45-minute sessions of speech-language therapy outside general education, monthly.

The IEP reflects “For the remainder of the 2022-2023 school year, [the student] will participate in supported/co-taught Honors Math, English, Science Social Studies, and Resource classes. For 2023-24, [the student] will participated [sic] in co-taught/supported English, Science, Social Studies, Math, and Resources classes.”

The least restrictive environment (LRE) required by the IEP is inside general education 80% or more.

3. On September 14, 2023, the complainant emailed the MCPS staff providing feedback from the September 13, 2023, IEP meeting. The email reflects that during the meeting the family “provided substantive data” that demonstrated the student was not receiving the “agreed upon IEP accommodations” in his honors pre-calculus class such as “extended time to complete assignments and assessments; feedback on assignments and assessments so [the student] can understand areas of improvement; and complete notes with examples/instructions to guide [the student] in understanding and completing work.” The email also reflects the complainant’s understanding that the student should be receiving support in “co-taught or supported” classes provided by “a second adult [who] is responsible for ensuring [the student’s] accommodations are being provided.”

The complainant shared that the honors pre-calculus teacher’s “feedback” indicates that the teacher was providing the student’s accommodations such as “blank notes...in paper format and online on the day of class; additional time on tests and homework; and completed notes from the previous day...posted online to the CANVAS class portal.” The complainant also stated that the pre-calculus support teacher shared that “she monitors [the student’s] focus and reminds him to stay on task; ...checks [the student’s] computer screen to ensure he isn’t looking at any site other than Pre-Calculus; [and] checks for [the student’s] understanding”; however, the complainant challenged that this support had been provided.

In addition to not receiving support in co-taught classes, the complainant shared that the student did not receive written communication reflecting “clear due dates and deadlines” on all assignments, classroom/student/teacher notes, frequent and immediate feedback, repetition of written and oral directions, and chunking of assignments.

The complainant shared the following additional concerns:

- “Several sections of the IEP were modified outside of the IEP meeting, without parent knowledge or consent.” “[Areas affected by disability and Other Health Impairments have been used to deliver the services of ‘checking for focus’ and ‘reminding student to stay on task’ which are not in the IEP, while the supports of “communicate clear deadlines in writing, limit amount to be copied, advance notice of testing, chunking, etc.) were unilaterally not provided.”
- The IEP does not include measurable goals.
- The honors physics co-teacher has not supplied the student with “written due dates, chunking of assignments or sentence starters.”
- [REDACTED] staff suggested that the student “could receive support by shortening his lunch period or outside of the classroom.”
- The resource classroom is not structured in a way that supports the student.

The complainant requested co-teacher support logs, and that a “[REDACTED] or instructive video be provided with each assignment” to assist the student until “a second, certified, co-teacher or support staff person” with pre-calculus subject matter expertise could assist in the classroom. The complainant disagreed with removing the student from the pre-calculus class.

The complainant also shared that the MCPS special education supervisor “attempted to engage in ex-parte discussions concerning [the student’s] pending Due Process complaint” because “Due Process must be discussed at the IEP meeting because it relates to services.” The complainant stated that she declined to hold the meeting, but “unbeknownst to the student and family, [REDACTED] staff outside of the scope of the complaint, have received a briefing of some sort on the pending litigation.” The complainant requested that “The MCPS limit the disclosure of confidential legal information to the appropriate people and venues.”

The complainant also stated that the IEP team did not discuss the student's August 17, 2023, request for a reduced attendance schedule at the September 13, 2023, IEP meeting, and requested a response to this request within one business day of the email.

4. There is no documentation that the MCPS addressed the complainant's concerns.
5. On September 18, 2023, the complainant emailed the MCPS staff regarding assistance with the communications, frequent and immediate feedback, and notice of testing accommodations the student was to receive but was not being provided. The email indicated that [REDACTED] staff previously shared that "there were upgrades that can be made to support [the student] in class" but the complainant wanted the student to receive the accommodations and services that were already on his IEP.
6. On October 3, 2023, the complainant emailed the student's precalculus teacher stating that the student was not receiving a "copy of notes, clear written feedback, chunking of assignments, notice of testing with subject/focus of test".
7. On October 3, 2023, the student's precalculus teacher emailed the complainant sharing that the complainant and the student were provided with additional resources to assist the student in the class, has allowed the student to select the problems that he will complete on multiple assignments, posted "blank notes" on the online system per the student's request, provided notice of testing and explained how the testing system works for honors level math courses, and offers students time to ask questions about homework in class. The teacher said he cannot provide the student with feedback if he does not complete the homework before coming to class. The teacher stated that he would like to work together with the complainant to meet the student's needs.
8. On October 4, 2023, the IEP team reconvened to discuss the student's reevaluation, assessments and the "partial day request". The PWN generated after the meeting reflects that the IEP team reviewed the student's grades, teacher reports, and the formal educational, psychoeducational evaluation, and speech language assessments completed in 2019, in addition to complainant, attorney, and advocate input. The IEP team determined that "given [the student's] current schedule [free appropriate public education] FAPE would be impacted given the partial day request." The IEP team determined that the student could attend school for five periods per day; attending resource class and four co-taught classes which would not impact his IEP services. The "recommended assessments, rating scales reading inventory and observation" needed to be conducted for the student to "reconfirm an educational disability and eligibly for special education services." The student's current IEP would be amended to reflect "an update discussed at the September 13, 2023, IEP meeting." A checklist for the student's honors precalculus class would be used "to monitor use of testing accommodations" and would be added to the supplementary aids and services.

The PWN further reflects that the complainant agreed with the proposed partial day schedule. The complainant's attorney expressed the complainant's concerns about grade inflation because "standard scores from assessments show that [the student] is below grade-level" and "they do not believe that his grades actually reflect his abilities."

9. The amended IEP developed at the October 4, 2023, IEP meeting includes the addition of "checklist for math class, daily (checklist for documenting use of accommodations within math class)." The IEP also reflects the student's impact statement was updated to reflect the June 2022 impact statement, as agreed to by the IEP team.

10. On October 4, 2023, the complainant emailed [REDACTED] staff requesting that certain “errors, omissions and misstatements of facts” in the PWN from the September 13, 2023, IEP meeting be addressed by including information that the complainant provided in the PWN. There is no documentation of a response to this request.
11. On October 5, 2023, the complainant emailed a signed “Notice and Consent for Assessment Form” to the MCPS staff for the student to be assessed in the areas of academic performance (reading, mathematics, and written language), communication (expressive/receptive language), intellectual/cognitive functioning, and emotional/social/behavior development, in addition to attention rating scales, information reading inventory, and an observation. In the email the complainant stated that the consent was “dependent upon advance notification of the dates and times [the student] will be tested.” The complainant shared that ideally “testing should occur during Resource class to minimize loss of instruction in... core classes... [the student] should not be removed from any class, for any reason without prior parent notification.”
12. On October 13, 2024, October 31, 2024, and November 16, 2023, the complainant emailed [REDACTED] staff and stated that the student was not receiving his accommodations and supports as required by the IEP.
13. On November 20, 2023, the student’s physics teacher scheduled a parent conference for the complainant an hour and a half after informing her of the meeting by email.
14. On November 20, 2023, the complainant emailed the attendees of the parent conference with “notes and information” that she captured during the meeting. Among other concerns, the complainant addressed the circumstance that the “co-support” teacher was only in class one day per week, and that the co-teacher was not present in the class for the four classes that the complainant observed. The complainant shared that during the meeting the physics teacher stated that “[the student] is required to ask for IEP supports.” The complainant also addressed her concerns about grading, the failure to provide notes and links on CANVAS, and that the student must request each accommodation.
15. On November 28, 2023, the complainant emailed the MCPS staff requesting an IEP meeting to address IEP accommodations and co-support in the student’s honors physics class, IEP accommodations and support in the student’s resource class, case manager support, and student removal from the classroom without prior notice.
16. On December 4, 2023, the complainant emailed the MCPS staff expressing her concerns regarding the student’s struggles in the physics class, and the information shared during the parent conference with the student’s physics teacher. The complainant requested intervention from the MCPS staff member.
17. On December 4, 2023, the complainant emailed the MCPS staff requesting that the student’s physics teacher stop discussing the student’s accommodations in front of other students. The complainant shared that the student was only receiving extended time.
18. On December 6, 2023, the MCPS staff emailed the complainant and shared that he met with the student’s physics teacher and they “reviewed the prior assignments and how they could be chunked through the lesson and to do so in the future.” The teacher was reminded to have the assignments and video links present on the CANVAS page for all access.” They also discussed “how to utilize” the paraeducator in the room “to communicate assignments and due dates both verbally and written.” The staff member stated that he asked the teacher “to make sure he discusses any information regarding accommodations in a private setting.”

19. On December 7, 2023, the complainant emailed the MCPS staff sharing her concerns about an incident that occurred in the student's physics class that occurred when the student advocated for himself regarding the teacher providing him a quiz with a note that asked, "When are you going to finish this test?" The complainant shared that she would be available to discuss the "classroom/IEP accommodations" and requested an immediate response and assurance that the teacher would "stop violating [the student's] privacy" and intimidating the student.
20. On December 7, 2023, the MCPS staff emailed the complainant sharing he would find a date to meet within the week. He also shared that he spoke with two of the student's teachers "stressing the importance of providing accommodations in privacy and confidentiality and the perception of intimidation that [the student] experienced."
21. On December 8, 2023, the complainant emailed the MCPS staff stating that the physics teacher had questioned the student about his accommodations in front of the class again by making "everyone aware that [the student] has extra time and demanded to schedule the extra time in front of everyone else." The complainant stated that the teacher stood across the classroom from the student when having this conversation and "there was no effort at privacy or confidentiality."
22. On December 20, 2023, the MCPS staff emailed the complainant sharing that the student was tired "and may not be at the best place for testing today." The email stated that the assessment would be rescheduled for January 3, 2024, during the student's resource class.
23. On December 20, 2023, the complainant emailed her attorney and the MCPS staff stating that the student was "administered two unscheduled, physics quizzes, instead of the scheduled, non-graded educational assessment." The email further expressed that the student was worried about "getting in trouble" with his teacher for not completing the physics quizzes, and that the student previously shared that he was not receiving "any in-class support from the paraeducator and has to take his own notes." The email states that the tester "refused to administer the educational assessment" because the student was not at his best.
24. On January 4, 2024, the complainant emailed the MCPS staff sharing that it seemed the student was being targeted in his physics class and was "isolated from all of the other students and not allowed to sit at a table [but was] relegated to a stool on the side of the room," which the complainant stated she observed when she visited the classroom. The email stated that the student's grade in the class had been lowered arbitrarily, the teacher "continues to discuss the student's IEP services in the presence of other students," and the teacher is unwilling to work with the resource teacher and the paraeducator in the classroom. The complainant stated that she had five meetings with the teacher, assistant principal, resource teacher, the student's case manager, and the MCPS staff member, but the incidents continued without being addressed.
25. On January 4, 2024, the MCPS staff emailed the complainant and shared that he would investigate the situation and see what options are for the student to be placed in a different physics class. The email included another MCPS staff member who was involved in previous meetings with the complainant.
26. On January 4, 2024, the complainant emailed the MCPS staff sharing the student's physics teacher asked the student how much additional time he would need on the test prior to the student receiving the test.



27. On January 5, 2024, the MCPS staff emailed the complainant stating that the physics teacher shared that the student “has preferential seating and can choose any seat that is open.” The email reflects when the teacher was asked about the student “sitting at a stool on the side of the room” it was shared that the student asked to sit at the counter. The email further reflects that the teacher “acknowledged he did say to [the student] that if he needed additional time, they could work on the test 4<sup>th</sup> period.” A system was in place for the teacher to communicate with additional school staff to provide the student with extended time on tests and assignments, and that the additional school staff communicated with the teacher several times during the school year. It was shared that a new paraeducator had been assigned to the student’s physics class, and the student’s IEP was reviewed with the paraeducator.
28. On January 8, 2024, the complainant emailed the MCPS staff sharing that the student was required to discuss additional time needed on a test he had yet to receive, and that the physics teacher continued to discuss the student’s IEP accommodations in the presence of other students. The complainant shared that this was the fourth time this behavior had been brought to the attention of the school’s administration. The complainant also shared concerns that the teacher failed “to provide frequent/immediate feedback or explanations for arbitrarily...lowering grades [in violation of the student’s accommodation for additional time.]” The complainant also shared that the student was not receiving preferential seating, and the student sat in the front row of class that day and was ordered to move. The complainant attached a seating chart from the physics class; illustrating students at tables or the counter but the student’s name was typed off to the left of the chart with no indication of peers at a table or counter.
29. On January 10, 2024, the complainant emailed the MCPS requesting an Independent Education Evaluation (IEE). The email states that the student’s IEP “was altered by the MCPS on May 31, 2023” by reducing the student’s speech therapy services and changing the area of disability and services and accommodations. The complainant stated that the parents disagreed with the changes because the changes were not supported by a “recent evaluation within 3 years” and the IEP team agreed to have the MCPS “[update] psychological, educational and speech testing.” The complainant attached the consent for assessment dated October 4, 2023. The complainant shared that the IEE was being requested because 97 calendar days had passed and the MCPS had not provided testing results or informed the complainant when the results would be provided, and the IEE was required to obtain the assessment data “to ensure the appropriate services and accommodations are included in [the student’s] IEP.”
30. On January 23, 2024, the MCPS staff member emailed the IEP team the student’s assessments and a link for an IEP meeting for the student. The email does not denote a meeting date.
31. On January 24, 2024, the MCPS staff member emailed the complainant and her attorney a notice for an IEP team meeting scheduled for February 6, 2024, Maryland Procedural Safeguards notice, and the MCPS parent report form.
32. On January 24, 2024, the complainant’s attorney emailed the MCPS staff requesting to reschedule the February 6, 2024, IEP meeting to the week of February 12, 2024.
33. On January 24, 2024, the complainant emailed the MCPS staff requesting to reschedule the meeting to the week of February 12, 2024, and stated that the student’s parents would be unavailable on one day during that week. The complainant also requested that the meeting be scheduled “at/after 12:30pm.”
34. On January 30, 2024, the MCPS staff emailed a message to the IEP team that stated, “Meeting cancelled per parent request.”

35. There is no documentation of an IEP meeting notice for a January 30, 2024, IEP meeting.
36. On February 1, 2024, the MCPS staff emailed the complainant stating that the student declined his speech services and chose to work on a class assignment instead. The email provided the current schedule for the student's speech therapy services, and what options have been provided for the student to receive the services, which includes a "voluntary only" session during second period and lunch.
37. On February 1, 2024, the student emailed the [REDACTED] Speech Language Pathologist (SLP) stating that due to the "disagreement" that they had about his IEP, the SLP discussing due process with the student, and "what will happen if [the student does not] meet on the days the [SLP wants] to meet for speech therapy, the student requested that the SLP contact the complainant to schedule his speech therapy sessions.
38. On February 2, 2024, the complainant emailed the MCPS staff regarding the scheduling of speech therapy sessions for the student. The complainant shared that the student did not "have a case manager to navigate and advocate for him" and she appreciated being allowed to assist them through this process. The complainant stated that she wanted to assist "repairing] and [rebuilding] the relationship that the speech therapist had with the student", and that the student "requests that [the speech therapist] not discuss Due Process" with him "particularly when [they are alone]." It was shared that the student understands that there is "a potential consequence for not scheduling speech sessions on a particular day." The complainant asked that she be contacted if there are any issues with the student regarding scheduling his speech therapy sessions in the future.
39. On February 2, 2024, the complainant emailed the MCPS staff stating that the student had not received needed supports for "an entire semester" and that the MCPS "has failed to provide and review an evaluation within 90 days as required" and "has made no attempt to schedule an IEP meeting, as required by law." The email stated that the complainant received a notice on January 30, 2024, that reflected the meeting had been cancelled "per parent request" but the meeting "was never scheduled, due to the MCPS' failure to comply with [the law]" because the school district had only coordinated the availability of the MCPS "staff and representatives" to attend the meeting without including the student and his family as part of the scheduling process. The complainant shared that although the complainant and her attorney requested to reschedule the meeting the MCPS ignored their requests for over a week. The complainant stated that she felt this was done to "retaliate against [the student] for exercising...his Due Process rights and continue to deny him a FAPE." The complainant stated that she was still interested in scheduling an IEP meeting at a mutually agreed upon time and place, and that February 13, 2024, and February 16, 2024, were the only dates that the complainant would be available.
40. On February 12, 2024, the MCPS staff emailed the complainant's attorney a notice for an IEP team meeting scheduled for February 16, 2024, at 1:00 pm.
41. On February 12, 2024, the complainant's attorney emailed the MCPS staff stating, "Despite the lack of 10 days' notice, I will attend Friday's meeting." The complainant's attorney requested a copy of the student's educational assessment results, draft IEP, and any relevant document as soon as possible.
42. The "Five-day Disclosure Notice of Documents Provided to Parent/Guardian for Review at an IEP Meeting" dated February 12, 2024, reflects the complainant was provided with the educational assessment or assessments summary, psychological assessments or assessments summary, and speech/language assessments or assessment summary. The notice does not reflect the provision of the Specific Learning Disabilities (SLD) form.

43. On February 13, 2024, a “Five-day Disclosure Notice of Documents Provided to Parent/Guardian for Review at an IEP Meeting” for an IEP meeting to be held on February 16, 2024, was received by the complainant's attorney and forwarded to the complainant. The notice included the documents to be reviewed at the February 16, 2024, IEP meeting.
44. On February 13, 2024, the complainant emailed the signed meeting notice “with the caveat that documents are provided by 10:00 am on 2/13/24” to her attorney and the MCPS staff.
45. On February 15, 2024, the complainant emailed the [REDACTED] speech therapist stating that the student stated that the SLP “raised the issue of Due Process with him again today” in the presence of other students. The complainant shared that this was embarrassing and hurtful to the student and asked how she could help “repair the situation and make the relationship a productive one.”
46. On February 16, 2024, the IEP team convened to review the reevaluation assessments. The PWN generated after the meeting reflects that based upon a formal review of the classroom-based data, previous formal assessments, and psychological, educational, speech-language assessments, completion of the SLD report, and input from the complainant and her attorney, the IEP team determined that the student was eligible for special education services under the eligibility codes of OHI, Speech and Language Impairment (SLI), and SLD in oral expression, written language, and reading comprehension. The complainant requested that SLI be considered the student’s primary disability, however, the PWN reflects that “the team determined that while [the student] does have speech needs...the OHI code is the best description of his educational disability.”

The complainant requested teacher reports and “an IEE regarding the psychological, educational, and speech-language assessments [because the complainant and her attorney] did not agree with the results of these three tests completed at [REDACTED].” The PWN reflects that this request would be forwarded to the MCPS Resolution and Compliance Unit. The complainant also shared her concern that social-emotional concerns were a factor in the student’s lack of achievement, but the school-based team determined that “based on the psychological assessment, [the student] is not a student with social-emotional concerns that rise to the level of considering an emotional disability.”

The PWN also reflects that when the team completed the SLD report the complainant “disagreed that [the student] was provided appropriate instruction within general education” but the MCPS determined that “his enrollment and attendance data support that he has been provided with appropriate instruction in the general education curriculum.” There was no discussion of the provision of services for the student at this meeting.

47. An audio recording of the February 16, 2024, IEP meeting revealed that there was not a general education teacher present at the start of the meeting. After a review of the psychological assessment the complainant requested to view the testing protocols for that assessment due to her concerns regarding inaccuracies in the final report. The school psychologist said she did not think she could provide the protocols to the complainant but would ask her director. During the educational assessment review, the complainant asked when and how she was told that the student would be pulled to complete the assessment. The evaluator stated that the complainant was informed of the upcoming testing date by email. In response to the complainant’s inquiry as to whether the student was tested for dyslexia and her concern that dyslexia may be an issue for the student which may be reflected in the results of his assessments, the psychologist shared that the student was not tested for dyslexia because the team did not decide to test the student in that area during the reevaluation planning meeting, but further testing

would have to be completed in that regard if it was determined that the educational assessment was not a complete and accurate depiction of the student's needs. It was recommended that the team complete the SLD form to help the team answer the questions regarding the possibility of dyslexia being a part of the student's profile. A school-based team member shared concerns that the educational assessment may not be an accurate reflection of the student's abilities. It was stated that if it were deemed necessary to rectify this concern informal data could be used or another assessor could complete the assessment. It was then that the complainant requested the IEE.

The team completed the SLD form. During the SLD form's completion, the complainant asked if a teacher was on the call, and it was stated that no teacher was present, although one was invited to the meeting. The complainant's attorney asked if any teacher reports had been provided. A team member asked that the attorney's request for teacher reports be documented, and a school-based team member stated that a teacher would be attending the meeting shortly. Once the student's teacher was in the meeting, she was asked to provide information about their reading comprehension, written language expression, and oral expression. The teacher provided her insight on the student's written language expression and reading comprehension abilities but stated that she had not observed the student working in class frequently. As the team continued to complete the form, the complainant and her attorney shared their concerns with some of the determinations made based on the data provided, and their concerns regarding the student's social-emotional needs as indicated in the recent psychological report. The school-based team shared that social-emotional needs were not a substantial concern for the student. The team continued to complete the SLD form, and when the discussion regarding the student's intellectual strengths and weaknesses arose it was determined that the student's teacher was no longer on the call. Upon completing the discussion and SLD form it was decided that the student's primary disability code would be Other Health Impairment (OHI) with the student also meeting the criteria for Speech-Language Impairment (SLI) and SLD in reading comprehension, written language expression, and oral expression.

48. There is no documentation that the MCPS responded to the complainant's request to receive the testing protocols during the February 16, 2024, IEP meeting.
49. There is no documentation that the complainant was provided an email informing her of when the student would be taken out of his classroom to complete the educational assessment.
50. The SLD Team Report that was generated at the February 16, 2024, IEP team meeting reflects that the student "has consistently been provided appropriate instruction in regular education by qualified personnel" and that the student "has received repeated assessments of achievement reflecting his progress over time." The team considered the student's achievement relative to his age in oral expression, reading comprehension, and written expression. The report includes information from January 31, 2024, psychological report; a January 17, 2024, speech-language assessment; and a January 14, 2024, educational assessment. The student was observed on November 8, 2023; January 18, 2024; and another date that was not provided in the report. The student's SLD "with reading comprehension and written expression skills require supports to be able to consistently access the general education curriculum...he demonstrates strengths/relative strengths in Visual Spatial and Fluid Reasoning but weaknesses/relative weaknesses in Verbal Comprehension, Working Memory, and Processing Speed. Academically, [the student] demonstrates strength in math calculations but weaknesses in reading comprehension, written expression, and oral expression." The conditions that may underlie the student's SLD were listed as reading comprehension, written expression, and oral expression.

51. On February 29, 2024, the complainant emailed the MCPS staff stating that the PWN from the February 16, 2024, IEP meeting was inaccurate, lacking information on the topics discussed, and did not reflect issues that the MCPS agreed to. The complainant stated that [REDACTED] continued to commit procedural violations.
52. On February 29, 2024, the MCPS staff emailed the complainant an updated PWN from the February 16, 2024, IEP meeting.
53. On February 29, 2024, the complainant emailed the MCPS stating that the PWN was “still inaccurate and lacking both the topics discussed as well as what the MCPS agreed would be included.”
54. On March 1, 2024, the MCPS staff emailed the complainant thanking the complainant for providing input and asking if the complainant would like to “provide points of discrepancies regarding the Prior Written Notice.” The email stated that the “form” could be updated to include the complainant’s comments.
55. On March 1, 2024, the complainant emailed the MCPS staff stating that the PWN from the meeting “was supposed to include information concerning test protocols and testing schedule” and hoped the situation would be rectified.
56. On March 8, 2024, the SLP log denotes that the student received a phone call during his speech therapy session. The log reflects that the SLP “heard [the student] say ‘mom I can’t talk right now, I have speech’ but the parent wouldn’t let the student hang up the phone.” The log reflects that the student put the phone on the table and asked if the SLP could talk to his mother and the SLP told him that she could not talk to his mother during a speech therapy session because “the parent’s phone call was disruptive and prevented [her] from providing speech therapy services to [her] student’s according to their IEPs.” The SLP hung up the phone because “the parent was listening to [their] conversation. The log states the SLP “did not feel it was appropriate for this parent to listen to a speech therapy session with other students present.” When the student said he had to call his mother back, the log reflected that he was asked to step outside of the speech therapy room. The SLP states that when she went to look for the student after ten minutes he was “nowhere to be found” and she “contacted security to notify them that [the student] was missing.” The student returned “21 minutes later” and was told that “we are responsible for his safety when he leaves without permission and without notifying an adult.” The log reflects that the student went to pick up his physics packet while he was gone.
57. On March 12, 2024, the [REDACTED] SLP emailed the complainant sharing the option for a March 18, 2024, meeting date. The email does not designate this meeting as an IEP meeting.
58. On March 12, 2024, the complainant emailed the MCPS staff confirming the March 18, 2024, meeting date for herself and her attorney.
59. On March 12, 2024, the [REDACTED] SLP emailed the complainant stating that the meeting would be a parent conference and not an IEP meeting.
60. On March 12, 2024, the complainant emailed the SLP stating that she “requested an IEP meeting” and that the SLP indicated that some members of the IEP team would be in attendance. The complainant shared that her expectation for the meeting was “to understand the change in services that [the student] reports, along with concerns [the SLP] raised with him about Due Process.”

61. On March 18, 2024, the SLP log reflects that the SLP spoke with the student at 7:40 am “to ask if he was available for speech therapy after lunch...or during 5<sup>th</sup> period. [The] SLP asked [the student] if he was aware of the schedule changes [that day], and he said “yes.” The log reflects that the student was absent from his 5<sup>th</sup> period resource class that day.
62. On March 20, 2024, the complainant emailed the MCPS staff stating that the student was no longer able to be in a room alone with, or receive speech therapy, from the speech-language pathologist. The complainant shared that she requested an IEP meeting on March 18, 2024, but was only permitted to have a “parent conference.” The email further states that on February 2, 2024, the SLP used the fact that the complainant had contacted the compliance office to inexplicably “coerce [the student]” into picking dates to receive speech-language therapy. Once the complainant requested that the staff member “not threaten the student in this way” the staff member “persisted,” and a second incident occurred “in the presence of other students.” A third incident occurred on March 18, 2024, “in the presence of other students to schedule speech therapy.” In the email, the complainant addressed the concern that “communications between the [MCPS] Resolution and Compliance Unit (RACU) are confidential, as mandated by the Family Educational Rights and Privacy Act (FERPA)” and the staff member should not have seen what she wrote to the RACU, nor used it to “threaten [the student] into scheduling IEP services” and discuss the matter in the presence of other students. The complainant asked to be informed if the student could be assigned a new speech therapist, and if not stated that the family would arrange for a private speech therapist for the student.
63. In April 2024, the student was assigned to a new speech therapist.
64. On May 3, 2024, the MCPS developed a draft IEP for the student. The IEP lists the student’s primary disability as OHI with reading comprehension, expressive language, written language expression, organization, and self-management as areas affected by the disability. The IEP does not provide a projected annual review date, most recent evaluation date, or projected evaluation date for the student. The specific areas identified for reevaluation refer to a decision made by the IEP team at an October 2022 IEP meeting, when the IEP team felt no psychosocial testing was needed for the student. The IEP does not reference the January 2024 psychological assessment conducted for the student. The most recent date the IEP team completed a full and comprehension review of all assessment materials in the IEP is listed as “10/11/22”.

The PLAAFP data provided by the IEP reflects the student performing at a “7<sup>th</sup>/8<sup>th</sup> grade” instructional level in reading comprehension. Updated student data in Resource A and B, Modern World History B, Honors English 11 A and B data is provided for marking periods 1, 2, and 3 is also provided in this area. In the area of written language expression, the student is listed as performing on an “8<sup>th</sup> grade” instructional level. Updated student data is provided from a November 1, 2023, “MCPS Narrative Common (writing) Task, a Resource class, Modern World History A, Latin American History, Honors English 11 A, and an English teacher report. In the area of speech and language expressive language, the student is listed as performing “below age-level expectations.” Updated student data is provided from May 2024, and the Comprehensive Assessment of Spoken Language-Second Edition (CASL-2) was administered in October and November of 2023. There is no other school year instructional grade level performance data provided in this area. In the area of self-management, the student is listed as performing “below age expectancy”, and updated student data is provided in the Resource, Modern World History A, and Honors English 11 A for marking periods 1, 2, and 3. Data is also provided for the area of “focus/attention on classroom instructions and directions” in Honors Algebra 2, Honors Chemistry, Resource, Honors English 10, and AP French classes. The data in this area provides strengths and areas for growth for the student. In the area

of organization, the IEP lists the student as performing “at age expectancy.” The IEP provides updated information in Honors English II, Honors Modern World History, African American History, and Resource classes for marking periods 1, 2, and 3. The IEP does not provide a current level of performance in secondary transition employment, and although the IEP provides data from a student interview, the date is not provided. The IEP also provides data in secondary transition education/training. The source of this data is listed as “transcript review,” and there is no current level of performance provided. Parental input regarding the student's education program states “To be discussed in the upcoming IEP meeting Parent report sent come [sic] to college parental input. In regard to Secondary Transition, parents support the post-secondary goals.” The student strengths and the disability impact statement continued.

Secondary transition data is listed as being updated by an “annual student interview” conducted on January 10, 2024, as well as updated data on student’s preferences, interest, and skills. Student employment data was updated to list the student’s employment goal after high school as working in the field of Business Management and Finance. The student’s employment training transition activity was updated to reflect the student would update his resume, and the student’s education goal was updated to reflect the student would attend college to major in Business Management and Finance.

The communication, assistive technology, instructional and assessment accessibility features, and accommodations continued.

The supplementary aids, services, program modifications, and supports required by the IEP continued.

The IEP reflects that the student is not eligible for Extended School Year (ESY).

The IEP goals in self-management, organization, written language expression, and reading comprehension continued. The speech-language expressive language IEP goal was updated to the following: “By May 2025, given visual or verbal cues, [the student] will verbalize grammatically correct sentences to make inferences and predictions, draw conclusions, and explain his reasoning given orally-presented information in 4 out of 5 opportunities, for 5 data collections.”

The special education services required by the IEP continued and reflected the dates of service from “05/31/2023” to “05/30/2024”. The speech-language services required by the IEP are listed as two, 45-minute sessions of speech-language therapy outside general education, monthly from “05/09/2024” to “05/08/2025”.

The IEP states “For the remainder of the 2022-2023 school year, [the student] will participate in supported/co-taught Honors Math, English, Science Social Studies, and Resource classes. For 2023-24, [the student] will participated [sic] in co-taught/supported English, Science, Social Studies, Math, and Resources classes.”

The LRE for the student is listed as inside general education (80% or more).

65. On May 4, 2024, and May 6, 2024, the MCPS staff emailed the complainant the student’s draft IEP and “5-day notice” for a May 9, 2024, IEP meeting.

66. On May 6, 2024, the complainant's attorney emailed the MCPS a request to reschedule the IEP meeting set for May 9, 2024. The email reflects that "the evaluations/assessments which will be the basis of the agreement are currently being contested" and that matter would not be resolved until mid-June. The email further states "while we appreciate it is time for the annual review of [the student's] IEP, it is extremely important that any review be based on reliable assessments and information."
67. On May 7, 2024, the MCPS staff emailed the complainant's attorney stating that that information would be forwarded to the "RTSE [resource teacher in special education] for scheduling purposes."
68. On May 24, 2024, the MCPS staff emailed the complainant stating that "MCPS will not be amending the PWN from [the student's] February [2024] meeting. If there is specific information or details/decisions that were omitted, we can attach your request as an addendum to the original PWN."
69. There is no documentation that the IEP team attempted to reschedule the student's annual IEP meeting, and the student's May 2024 draft IEP was not finalized or closed.
70. On June 7, 2024, the January 2024 psychological and speech-language assessments conducted by the MCPS were deemed to be comprehensive and in compliance with "the IDEA and applicable federal and State regulations" by an administrative law judge. The decision also provided that "the parents [were] not entitled to a psychological or speech-language IEE at public expense."
71. On August 26, 2024, the student enrolled in Montgomery Blair High School.
72. On August 27, 2024, the MCPS staff emailed the complainant requesting permission to amend the student's IEP "so that it accurately reflects [the student's] current needs."
73. On August 27, 2024, the complainant emailed the MCPS staff stating that the student did not have a current IEP for the 2024-2025 school year. The complainant "[recommended] that [the IEP team] hold an IEP meeting...before an amendment [was made to the student's IEP.]" The complainant requested to receive a copy of the document that the MCPS planned to amend.
74. On August 30, 2024, the complainant emailed the MCPS staff requesting a copy of the document that was being considered for amendment to assist her in understanding the services and supports the student would receive "as of August 26, 2024" as no indication of timeframes had been provided.
75. On August 30, 2024, the MCPS staff emailed the complainant stating that the cluster supervisor had been contacted regarding closing the student's IEP from the previous year and shared that once that happened an IEP amendment meeting would be scheduled "to discuss offerings and services for [the 2024-2025] school year."
76. On September 5, 2024, the MCPS staff emailed the complainant providing the student's 2023-2024 IEP and a May 2024 draft IEP. The email reflects that the staff member reached out to [REDACTED] and the special education office to ensure that the "new IEP will be closed as soon as possible." The student would receive the following services: "Supported English, history, math, and science classes; a resource class; check-ins with case manager (15 minutes per week); and speech/language services (90m per month)." The staff member could not "speak directly to what was discussed at [the student's] meeting in May and what services were agreed upon" but the staff member recommended matching the student's schedule to the services required in the draft. The staff member shared that the student's IEP could be amended to reflect any changes should the student choose to take "some unsupported classes this year." The email further



reflects that the student had a supported math class and a resources class, and adjustments should be made if the student felt he needed more support.

77. On September 5, 2024, the complainant emailed the MCPS staff member stating that she was not included in “any IEP or services discussions this past May.” The complainant shared that she had concerns about the May 2024 draft IEP because it did not reference the psychological testing conducted for the student in January 2024.
78. On September 24, 2024, the MCPS staff emailed the complainant and the student providing a meeting invitation, parent report, and procedural safeguards for an October 10, 2024, “Periodic IEP Review Meeting.”
79. On October 2, 2024, the complainant emailed the MCPS staff stating that the draft IEP did not include the student’s progress toward the previous year’s IEP goals. The complainant also reiterated her previously shared concerns regarding the failure of the IEP to include the most current psychological assessment data. The complainant asked why the May 2024 draft IEP did not include the services and recommendations from the January 2024 psychological assessment, and the January 2024 psychological assessment was not mentioned in the May 2024 draft IEP.
80. On October 10, 2024, the IEP team at [REDACTED] convened for a “periodic review meeting” to “discuss closing the draft IEP from the 2023-2024 school year.” The meeting was also attended by two members of the [REDACTED]’ IEP team. The PWN generated after the meeting reflects that the complainant discussed her concerns regarding the lack of provision of the third and fourth quarter IEP progress reports for the 2023-2024 school year. The [REDACTED] team sent them to the complainant during the meeting. The IEP team reviewed the student’s current level of performance in English, and discussed the dynamics of his case manager supports from the 2023-2024 school year and the current school year. The [REDACTED] team requested that the student’s teacher reports from the first marking period at [REDACTED] and progress reports from the fourth marking periods at [REDACTED] be added to the IEP. The complainant shared her concerns surrounding the inaccuracies and lack of clarity in the third and fourth marking period progress reports that she received from [REDACTED], but the IEP team was unable to provide the date that the third marking period progress report was developed.

The complainant inquired about why the May 2024 psychological assessment was not included in the May 2024 draft IEP; and the family attorney stated that the May 2024 IEP was inadequate. The complainant’s attorney shared that the IEE reflects that the student had regressed, and the family was interested in what services could be offered to the student beyond graduation. The PWN reflects that “the psychological assessment that took place during the 2023-2024 school year was being contested by the family, and thus was not included in the May draft; however, the assessment was upheld in court, and the decision provided to the MCPS in June 2024.” The complainant shared that the private educational and auditory processing assessments were completed and provided to the MCPS and the Resolution and Compliance Unit (RACU) before the meeting. The complainant expressed her dissatisfaction in that there was no psychologist at the meeting “to review and incorporate the results of the independent psychological assessment into the draft IEP.”

The IEP team “agreed to add the independent educational assessment data to the draft IEP, forward the independent psychological assessments to the psychologist at [REDACTED] to review, then reconvene in November 2024 to review the updated draft document.” The team determined the services, accommodations, and supplementary aids and supports that the student would receive in the interim, and the complainant agreed. The student’s IEP remained in draft form.

81. On October 10, 2024, the [REDACTED] team provided the parent with “Teacher Report[s] for [the student] Quarterly Progress” for the third and fourth quarters of the 2023-2024 school year, a “Grade Capture Sheet” for the week of April 22, 2024, a student grade progress report dated June 22, 2024, and three undated work samples from his resource class.
82. The quarterly IEP progress reports for the 2023-2024 school year did not measure the student’s progress toward achieving the IEP goals in the manner required by the IEP. Specifically, the written language expression, reading comprehension, and self-management IEP progress reports do not reflect the number of trials attempted toward achieving the goal and the organization goal does not reflect the required number of classes (five out of seven) for the data collection.
83. While there is some documentation that the student received the supplementary aids, services, program modifications, and supports in the Honors English, and Physics classes, it does not demonstrate that they were consistently provided during the 2023-2024 school year.
- There is no documentation that the student received these supports in the Honors Precalculus class.
84. There is no documentation that the complainant received the student’s service logs as requested.
85. There is no documentation that the student’s annual review IEP meeting, due on May 30, 2024, has been convened.

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

##### **ALLEGATION #1                      PROVISION OF PROGRESS REPORTS**

It is the public agency’s responsibility to ensure that the IEP includes a description of how the student’s progress toward achieving the annual goals will be measured and when reports of progress will be provided to the student’s parents (34 CFR §300.320).

In this case, the complainant received the “Teacher Report for Quarterly Progress” for the third and fourth quarters of the 2023-2024 school year on October 10, 2024. The IEP requires that the student’s progress would be reported on a quarterly basis.

Based on the Findings of Fact #2, and #80 to #81, MSDE finds that the MCPS has not ensured that the parent was provided with reports of quarterly progress toward achieving the annual IEP goals for the third and fourth quarters of the 2023-2024 school year, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation occurred concerning the allegation.

#### **ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

##### **Measuring of Progress**

In this case, the “Teacher Report for Quarterly Progress” for the third and fourth quarters of the 2023-2024 school year did not measure the student’s progress toward IEP goals as required by the IEP.

Based on the Finding of Fact #82, MSDE finds that the MCPS has not ensured that the student's progress towards achieving the IEP goals for the third and fourth quarters were measured in the manner required by the IEP, during the 2023-2024 school year, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation occurred.

### **Measurable IEP Goals**

An IEP must include a statement of measurable annual goals. (34 CFR § 300.320)

The self-management and organization goals included in the September 13, 2023, and October 4, 2023, IEP are not measurable as written.

Based on the Finding of Fact #2, MSDE finds that the MCPS has not ensured that the student's annual IEP self-management and organization goals in the September 2023 amended IEP were measurable; in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation occurred.

### **ALLEGATION #2 CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION**

Appropriate action must be taken to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the public agency. (34 CFR § 300.610).

#### **Special Education Supervisor**

In this case, in an email dated September 14, 2023, the complainant informed the MCPS that the special education supervisor had attempted to engage her in an "ex-parte" discussion regarding the student's pending due process complaint. There is no documentation that the MCPS responded to the complainant's concerns about the interaction or denied that the interaction occurred. However, this communication is not a violation of 34 CFR § 300.610 as no personally identifiable information related to the student was released.

Based upon Finding of Fact #3, MSDE finds that the MCPS did ensure that the student's personally identifiable information remained confidential during the 2023-2024 school year, in accordance with 34 CFR § 300.610. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

#### **Speech Therapist**

In this case, there is documentation that the SLP discussed due process concerns with the student on more than one occasion, however, this is not a violation of 34 CFR § 300.610, as no personally identifiable information regarding the student was divulged.

Based upon Findings of Fact #37, #38, #45, and #62, MSDE finds that the MCPS did ensure that the student's personally identifiable information remained confidential during the 2023-2024 school year, in accordance with 34 CFR § 300.610. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

### **Honors Physics Class**

Based on the Findings of Fact #17 to #21, MSDE finds that the MCPS has not ensured the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the LEA during the honors physics class, in accordance with 34 CFR § 300.610. Therefore, this office finds that a violation occurred concerning this aspect of the allegation.

### **ALLEGATION #3 THE PROVISION OF IEP SUPPORTS AND SERVICES**

As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. (34 CFR § 300.323).

In this case, the complainant informed [REDACTED] that the student was not receiving his IEP services and accommodations several times during the 2023-2024 school year. The documentation provided does not demonstrate that the student consistently received his IEP supports and services during the 2023-2024 school year.

Based on the Findings of Fact #1 to #3, #12 to #20 #24, #25, #27, #28, and #83, MSDE finds that the MCPS did not ensure that the student was consistently provided with the supplementary aids, services, program modifications, and supports required by the IEP during the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning the allegation.

### **ALLEGATION #4 RESPONDING TO A PARENT REQUEST FOR AN IEP MEETING**

Written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (34 CFR § 300.503).

In this case, on November 28, 2023, the complainant requested an IEP meeting to discuss the provision of services to the student. There is no documentation that the MCPS provided the complainant with a PWN responding to the complainant's November 28, 2023, request for an IEP team meeting within a reasonable amount of time.

On January 23, 2024, the MCPS attempted to schedule an assessments review meeting on February 6, 2024. On February 16, 2024, the IEP team met to review the student's assessments. The IEP team did not discuss the provision of services.

On March 12, 2024, the complainant requested an IEP meeting to discuss the provision of services and confidentiality concerns. The MCPS responded by offering a parent conference held on March 18, 2024. On May 6, 2024, the complainant requested to reschedule the student's May 9, 2024, annual IEP review meeting. There is no documentation that the MCPS has convened the student's annual review meeting.

Based on the Findings of Fact #15, # 20, #30 to #35, #40 to #44, #46, #65 to #67, #69, and #80, MSDE finds that the MCPS did not follow proper procedures when responding to a request for an IEP team meeting during the 2023-2024 school year, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation occurred concerning the allegation.

**ALLEGATION #5 PROVISION OF IEP DOCUMENTS FIVE DAYS PRIOR TO IEP MEETING**

Each assessment, report, data chart, draft IEP, or other document the IEP team or other multidisciplinary team plans to discuss at that meeting, at least 5 business days before the scheduled meeting. (COMAR 13A.05.01.07).

In this case, the complainant did not receive the documents to be reviewed at the February 16, 2024, assessment review meeting until February 13, 2024, three days before the meeting. The SLD form was provided during the meeting.

Based on the Findings of Fact #40 to #43 and #47, and #50, MSDE finds that the MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the February 16, 2024, IEP team meeting at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning the allegation.

**ALLEGATION #6 ANNUAL IEP MEETING**

Each public agency must ensure that the IEP team reviews the child's IEP periodically, but not less than annually. (34 CFR § 300.324).

In this case, the student's September 2023, IEP reflects that the annual review was to be held by May 30, 2024. On May 6, 2024, the complainant and her attorney requested to reschedule the annual review meeting scheduled for May 9, 2024, with [REDACTED]. The annual review meeting was not rescheduled. On October 10, 2024, the IEP team at [REDACTED] held a "periodic review meeting." The student's IEP was not finalized or closed at that meeting. To date, MCPS has not convened an annual review meeting.

Based on the Findings of Fact #2, #65 to #69, and #85, MSDE finds that the MCPS did not ensure that the IEP team convened by May 30, 2024, to review the student's IEP in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred concerning the allegation.

**ALLEGATION #7 PROPER PROCEDURES FOR AMENDING THE IEP**

Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. (34 CFR § 300.324).

In this case, the IEP team held an IEP meeting on September 13, 2023, to determine if the student's social/emotional concerns were a current area of impact. The PWN generated after the meeting does not reflect a discussion to remove social-emotional/behavioral as an area of impact in the student's IEP but the area was removed in the amended September 13, 2024, IEP. In October 2024, the student's IEP was amended to reflect the June 2022 impact statement as agreed to at the September 13, 2024, IEP meeting.

Based on the Findings of Fact #1 to #3, MSDE finds that the MCPS did not follow proper procedures when amending the student's IEP in September 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation occurred concerning the allegation.

## **ADDITIONAL VIOLATION IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

### **Proper Procedures When Responding to a Request to Amend Student Records**

A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing. (34 CFR §§ 300.618 – 621).

In this case, on October 4, 2023, the complainant requested that the PWN from the September 13, 2023, IEP meeting be amended to include information that she provided. There is no documentation of a response to this request.

Based on the Finding of Fact #10, MSDE finds that the MCPS did not follow proper procedures when responding to a request to amend the student’s educational record made on October 4, 2023, in accordance with 34 CFR §§ 300.618-621. Therefore, this office finds that a violation occurred.

### **ALLEGATION #8                      PROPER PROCEDURES FOR COMPLETING A REEVALUATION IN THE REQUIRED TIMELINE**

When conducting a reevaluation, the public agency must ensure that assessments are conducted, the results are considered by the IEP team, and the IEP is reviewed and revised, as appropriate, within ninety days of the date the team determines that assessments are required (COMAR 13A.05.01.06E). In this case, the complainant provided consent to assess the student on October 5, 2023, but the IEP team did not meet to review the assessments until February 16, 2024, failing to meet the 90-day timeframe required by law.

Based on the Findings of Fact #11, #46, and #47, MSDE finds that the MCPS did not ensure that a comprehensive psychological or speech evaluation was conducted within required timelines since October 2023, in accordance with 34 CFR § 300.303 and COMAR 13A.05.01.06. Therefore, this office finds that a violation occurred concerning the allegation.

## **ADDITIONAL VIOLATIONS IDENTIFIED DURING THE COURSE OF THE INVESTIGATION**

### **Required Participants**

The public agency must ensure that the IEP Team for each child with a disability includes not less than one regular education teacher of the child if the child is, or may be, participating in the regular education environment. (34 CFR § 300.321).

In this case, the audio recording of the February 16, 2024, IEP meeting reflects that the regular education teacher was not present when the meeting began, and the regular education teacher was not requested until one hour and eight minutes into the meeting. The teacher answered a question posed to

her while the team was completing the SLD form, and when called upon again to assist the team with the SLD form approximately 22 minutes later in the recording, the teacher did not respond, and it was stated that she had returned to class.

Based on the Findings of Fact #46 and #47, MSDE finds that the MCPS did not ensure that the IEP team that convened on February 16, 2024, included a regular education teacher, in accordance with 34 CFR § 300.321. Therefore, this office finds that a violation occurred.

**ALLEGATION #9 MEETING AT A MUTUALLY AGREED UPON TIME**

Each public agency must take steps to ensure that one or both parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including scheduling the meeting at a mutually agreed on time and place. (34 CFR § 300.322).

In this case, on January 23, 2024, the MCPS emailed copies of assessments for review and a google meet link for an IEP meeting to the complainant. On January 24, 2024, the MCPS emailed the complainant and her attorney a notice of an IEP team meeting scheduled for February 6, 2024. On January 24, 2024, the complainant requested the February 6, 2024, meeting be rescheduled. On January 30, 2024, the MCPS emailed the IEP team a notice stating, "Meeting canceled per parent request." There is no documentation that an IEP meeting was scheduled for January 30, 2024. Instead, the February 6, 2024, IEP meeting was cancelled on January 30, 2024.

Based on the Findings of Fact #30 to #35, MSDE finds that there was no IEP meeting scheduled for January 30, 2024, that would require the MCPS to ensure that IEP team meeting scheduled for January 30, 2024, occurred at a mutually agreed upon time, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07. Therefore, this office finds that no violation occurred concerning the allegation.

**ALLEGATION #10 PROVISION OF THE PWN**

Written notice must be given to the parents of a child with a disability a reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The notice must include a description of the action proposed or refused by the agency; an explanation of why the agency proposes or refuses to take the action; a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; sources for parents to contact to obtain assistance in understanding the provisions of this part; a description of other options that the IEP Team considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal. (34 CFR § 300.503).

In this case, on February 29, 2024, the complainant requested that the PWN from the February 16, 2024, IEP meeting be amended to reflect information and topics discussed in the meeting that were not noted in the PWN. The same day the MCPS sent the complainant an updated PWN, which the complainant stated was still inaccurate and did not reflect her request for test protocols and the testing scheduling. On May 24, 2024, the MCPS emailed the complainant informing her that the February 16, 2024, PWN would not be amended. Based on the audio recording from the February 16, 2024, IEP meeting, the February 16, 2024, PWN does not accurately reflect all the proposals and refusals that took place during the meeting.

Based on the Findings of Fact #46, #47, #51, #55, and #68 MSDE finds that the MCPS did not provide a complete prior written notice of the IEP team's rejection of the parents' request to review the testing protocols and the discussion regarding scheduling the educational assessment, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation occurred concerning the allegation.

#### **ALLEGATION #11      ACCESS TO EDUCATIONAL RECORDS**

Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part without unnecessary delay and before any meeting regarding an IEP, or any hearing, or resolution session, and in no case more than 45 days after the request has been made. (34 CFR § 300.613).

In this case, the complainant requested to view the test protocols for the psychological assessment during the February 16, 2024, IEP team meeting. The school psychologist informed the complainant that she did not think that she could provide her with that information, but she would check with her supervisor. There is no documentation that the school psychologist followed up with the complainant's request. Additionally, the PWN from the February 16, 2024, IEP meeting reflects that the complainant requested teacher reports. The complainant did not receive teacher reports until October 10, 2024, well beyond the 45-day timeframe required by law.

Based on the Findings of Fact #46, #47, #80, #81, and #84, MSDE finds that the MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record, in accordance with 34 CFR § 300.613. Therefore, this office finds that a violation occurred concerning the allegation.

#### **CORRECTIVE ACTIONS and TIMELINES:**

The IDEA requires that State complaint procedures include 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. Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.



SDE 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 Branch, 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**

By December 12, 2024, MSDE requires the MCPS to provide documentation that the school system has:

- Convened an annual IEP meeting for the student, reviewed and revised the IEP consistent with the data, and ensured that the IEP includes measurable annual goals; and
- Determined whether the violations related to failure to measure progress for the third and fourth marking period during the 2023-2024 school year as required by the IEP, failure to maintain confidentiality regarding the student's services, failure to consistently provide the student with the IEP services and supports required by the IEP during the 2023-2024 school year, failure to hold an annual IEP meeting by the date required by the IEP, failure to properly amend the student's IEP, failure to complete the student's reevaluation within the legally required time frame, and failure to properly complete the SLD form with a general education teacher in attendance for the entirety of the discussion 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 violations within a year of the date of this Letter of Findings; and
- 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.

### **School-Based**

MSDE requires the MCPS to provide documentation by February 28, 2025, of the steps it has taken to ensure that the staff at [REDACTED] properly implements the requirements for the implementation of confidentiality of student services, responding to parent requests for IEP meetings, provision of documents five days prior to an IEP meeting, provision of PWNs, and providing complainant's access to student records under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance.

---

<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency corrects 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.

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/ebh

c: Dr. Thomas W. Taylor, Superintendent, the MCPS  
Diana K. Wyles, Associate Superintendent, the MCPS  
Maritza J. Macias, Paralegal, Resolution and Compliance Unit, the MCPS  
Eve Janney, Compliance Specialist, the MCPS  
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, the MCPS  
[REDACTED], Principal, [REDACTED], the MCPS  
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE  
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Elizabeth B. Hendricks, Complaint Investigator, MSDE