

November 14, 2024

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[REDACTED]
[REDACTED]

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

RE: [REDACTED]
Reference: #25-069

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 September 17, 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 follow proper procedures when identifying and evaluating the student to determine if he is a student with a disability requiring special education and related services, since February 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06.
2. The MCPS did not follow proper procedures to ensure that the Individualized Education Program (IEP) team considered the appropriate data used to determine eligibility for special education and related services since February 2024, in accordance with 34 CFR §§ 300.304–300.306.

BACKGROUND:

The student is six years old and receives support through a 504 plan¹. During the 2023- 2024 school year, the student attended [REDACTED], and he currently attends [REDACTED]².

FINDINGS OF FACT:

1. On February 22, 2024, the IEP team convened to consider the referral for special education submitted by the complainant on January 24, 2024, for the student. The referral was based on the complainant's concerns regarding the student's social and emotional needs and attention difficulties. Based on these concerns when compared to peers, the student demonstrated behaviors such as:
 - Late to class;
 - Difficulty with phonemic awareness, phonics; and
 - Difficulty with spelling.

The student received a recent diagnosis of Disruptive Mood Disorder (DMD) and Attention-Deficit/Hyperactivity Disorder (ADHD), which the complainant was concerned could potentially impact the student in the school setting. The student was hospitalized on January 18, 2024, due to posing a danger to himself and others in the home setting and was discharged on January 27, 2024, with a diagnosis of DMD. The complainant expressed concerns about how this diagnosis may affect the student in school.

The Child Find Referral completed by the IEP team reflects that frequent school absences (45 days) significantly impacted the student's academic progress. However, he benefited from small group instruction, which addressed gaps in his reading and writing skills. The teacher's report indicated that, in class, the student demonstrated positive personal attributes. He is described as empathetic, generous, and sociable, often engaging well with classmates and showing interest in hands-on activities like puzzles, engineering projects, and physical activities such as biking. Despite occasional struggles with attention and engagement, the student responded well to structured support and positive reinforcement, actively participating in classroom activities when present.

The referral reflected when the student is present in school, he was very successful. The referral reflected that the student's transitions, particularly returning to school after absences, remained difficult. He resisted taking the bus and performed better when arriving later or with a trusted adult. His mother identified emotional growth, confidence-building, and increased interest in reading as priorities for his development, and the school team recommended a 504 meeting to establish supports that address his transition needs, improve his attendance, and support his social-emotional and academic progress.

¹ "Section 504" refers to Section 504 of the Rehabilitation Act of 1973, which requires schools to provide a free appropriate public education (FAPE) to each eligible student, including the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of a student without a disability are met. (34 CFR § 104.33).

² Located in [REDACTED].

2. The Prior Written Notice (PWN) generated after the meeting reflected the IEP team's review of the student's educational history, classroom data, report cards, MAP scores, teacher report, parent questionnaire, and health record review. In addition, a classroom observation was shared along with input from parents and classroom teachers. The student was making steady academic progress when he attended school. He consistently demonstrated proficiency with all learning skills in kindergarten while at school and is consistently regulated his emotions at school. The student missed 14 days of school during Quarter 1 of kindergarten and has missed 22 days of school during Quarter 2, mostly due to illness/medical reasons. The team recognized that he recently had difficulty transitioning to school in the mornings which also impacted his attendance. The team agreed that accommodations may be necessary to help the student transition into the classroom when he is dropped off. The IEP team determined that no additional assessments were needed to determine that there was no suspicion of an educational disability requiring specialized instruction and related services. The team proposed that the 504 team meet to discuss the need for accommodations and establish supports that address his transition needs, improve his attendance, and support his social-emotional and academic progress.
3. On February 22, 2024, the complainant received a "Notice of No Assessment Needed" regarding concerns in the areas of social-emotional development, written language mechanics, and phonics. Based on a review of the student's educational history, classroom data, report cards, MAP scores, teacher reports, parent questionnaires, health records, input from parents and classroom teachers, and classroom observations, the student was not suspected of having a disability or developmental delay. No additional data or information is needed.
4. On February 26, 2024, the 504 team met and determined that the student required support through a 504 plan to help support him in transitioning into the school building and emotional regulation.

CONCLUSIONS:

ALLEGATION #1 PROPER PROCEDURES FOR IDENTIFYING A STUDENT WITH A DISABILITY

Based on Findings of Fact #1 through #3, MSDE finds that the MCPS followed proper procedures when identifying and evaluating the student to determine if he is a student with a disability requiring special education and related services, since February 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06. Therefore, this office finds that a violation did not occur concerning the allegation.

ALLEGATION #2 USE OF APPROPRIATE DATA TO DETERMINE ELIGIBILITY

Based on Findings of Fact #1 through #3, MSDE finds that the MCPS did follow proper procedures to ensure that the IEP team considered the appropriate data used to determine eligibility for special education and related services since February 2024, in accordance with 34 CFR §§ 300.304–300.306. Therefore, this office finds that a violation did not occur concerning 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 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 why the documentation was not made available during the investigation. Pending this office's decision on a request for reconsideration, the public agency must implement any corrective actions within the timelines reported in this Letter of Findings.

The parties maintain the right to request mediation or to file a due process complaint if they disagree with the identification, evaluation, placement, or provision of a free appropriate public education (FAPE) for the student, including issues subject to this State complaint investigation, consistent with the IDEA. MSDE recommends that this Letter of Findings be included with any request for mediation or a due process complaint.

Sincerely,

Antoine L. Hickman, Ed.D.
Assistant State Superintendent
Division of Early Intervention and Special Education Services

ALH/sj

c: Dr. Thomas Taylor, Superintendent, MCPS
Peggy Pugh, Chief Academic Officer, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
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Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
[REDACTED], [REDACTED], Principal, MCPS
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Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
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