

December 2, 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: #25-086

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 October 3, 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) and related requirements concerning the above-referenced student.

MSDE investigated the following allegations:

1. The MCPS has not ensured that the student is being provided with the special education classroom instruction required by the Individualized Education Program (IEP), since October 3, 2023, in accordance with 34 CFR §§ 300.101 and .323.
2. The MCPS did not ensure that the complainant was provided with a report of the student’s progress toward achieving the annual IEP goals for the second quarter of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323.
3. The MCPS did not ensure that the complainant was provided with accessible copies of each document the IEP team planned to discuss at the IEP team meeting on May 8, 2024, at least five business days before the scheduled meetings, in accordance with COMAR 13A.05.01.07.
4. The MCPS did not ensure that the IEP team considered the parent information and concerns at the IEP meeting since October 3, 2023, in accordance with 34 CFR § 300.324.

**BACKGROUND:**

The student is 9 years old and is a student with Specific Learning Disability (SLD) under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction.

**ALLEGATIONS #1 and #2**

**PROVISION OF SPECIAL EDUCATION INSTRUCTION AND  
PROGRESS REPORTS**

**FINDINGS OF FACT:**

1. The IEP in effect on October 3, 2023, was developed on November 16, 2022. The IEP reflects that the following areas are impacted by the student's disability: reading comprehension, reading fluency, reading phonics, and written language expression. The IEP requires seven hours and thirty minutes per week of special education instruction inside the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant. The IEP requires two hours per week of special education instruction outside of the general education setting to be provided by the special education teacher.

The IEP reflects the parent will be notified at the end of the marking period of progress towards achievement of the annual IEP goals.

2. The IEP developed on November 8, 2023, continues to reflect the following areas are impacted by the disability: reading comprehension, reading fluency, reading phonics, and written language expression. The IEP requires two hours and thirty minutes per week of special education instruction inside the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant. The IEP continues to require two hours per week of special education instruction outside of the general education setting to be provided by the special education teacher.

The IEP reflects the parent will be notified at the end of the marking period of progress towards achievement of the annual IEP goals.

**Amended May 8, 2024**

On May 8, 2024, the IEP team amended the November 8, 2023, IEP. The IEP requires three hours and forty-five minutes per week of special education instruction inside the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant. The IEP requires two hours per week of special education instruction outside of the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant.

**Amended October 2, 2024**

On October 2, 2024, the IEP team amended the November 8, 2023, IEP. The IEP requires five hours per week of special education instruction inside the general education setting to be provided by the special education teacher, general education teacher and/or instructional assistant.

3. There is no documentation that the student was consistently provided with the special education classroom instruction required by the IEP since October 3, 2023.

4. On March 14 and 21, 2024, the MCPS school-based staff emailed the report of progress towards achievement of the annual IEP goals reported on January 29, 2024, to the complainant.

### **CONCLUSIONS:**

#### **Special Education Instruction**

Based on the Findings of Fact # 1 through #3, while there is some documentation that the MCPS provided special education instruction, MSDE finds that the MCPS did not ensure that the student was consistently provided with the special education classroom instruction as required by the IEP, since October 3, 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds that a violation did occur concerning the allegation.

#### **Progress reports**

Based on the Findings of Fact #2 and #4, MSDE finds that the MCPS has not ensure that the complainant was provided with a timely report of the student's progress toward achieving the annual IEP goals for the second quarter of the 2023-2024 school year, in accordance with 34 CFR §§ 300.101 and .323. Therefore, MSDE finds that a violation has occurred concerning this aspect of the allegation.

Notwithstanding, MSDE finds that on March 14, 2024, the MCPS provided the complainant with a report of the student's progress toward achieving the annual IEP goals for the second quarter of the 2023-2024 school year. Therefore, no additional student corrective action is required.

#### **ALLEGATION #3**

#### **PROVISION OF FIVE-DAY DOCUMENTS**

### **FINDINGS OF FACT:**

5. On May 3, 2024, the MCPS school-based staff emailed the IEP in effect to the complainant. The email was sent in preparation for an IEP team meeting on May 8, 2024, and in response to the complaint's email requesting to "meet in person to review where [student] is at with her goals." The complainant sent a second email indicating that she would also like a "recap of the reading intervention plan we discussed in November."
6. On May 8, 2024, the IEP team convened at the parent's request to discuss and review the IEP and special education services. The Prior Written Notice (PWN) generated following the meeting reflects that the team reviewed classroom assessments & observations, report card grades, Measure of Academic Progress (MAP), and Dynamic Indicators of Basic Early Literacy Skills (DIBELS).

There is no documentation that the MCPS planned on reviewing documents other than the IEP during the IEP team meeting on May 8, 2024.

### **CONCLUSION:**

Based on the Findings of Fact #5 and #6, MSDE finds that the MCPS did ensure that the complainant was provided with accessible copies of each document the IEP team planned to discuss at the IEP team meeting on May 8, 2024, at least five business days before the scheduled meetings, in accordance with COMAR 13A.05.01.07. Therefore, MSDE finds that a violation did not occur concerning the allegation.

**ALLEGATION #4**

**PARENT CONCERN**

**FINDINGS OF FACT:**

7. The PWN generated following an IEP team meeting on May 8, 2024, reflects the IEP team convened at the request of the complainant. The complainant raised concerns about the IEP and special education services. To address the complainant's concerns, the IEP team proposed and agreed to provide the student with counseling check-ins and make adjustments to the counseling sessions as needed.
8. The PWN generated following an IEP team meeting on May 23, 2024, reflects the IEP team convened at the request of the complainant to discuss potential compensatory services. The IEP team proposed and agreed to collect data on the student's progress in order to determine if compensatory services are required. The MCPS Resolution and Compliance unit along with the MCPS central office staff will review the information provided by the school-based team.
9. The PWNs generated following an IEP team meeting on October 30, 2024, reflect the IEP team convened to discuss the student's re-evaluation plan. The PWN reflects the complainant requested new assessments for the student based on academic, cognitive, and behavior concerns. The complaint also inquired about occupational therapy (OT) services based on the student's handwriting.

The school-based team proposed and agreed to assessments in the following areas: academic performance, intellectual/cognitive functioning, and social-emotional behavior development. The school-based team also proposed and agreed to an OT consultation to address the complaint's concern.

The IEP team reviewed the student's IEP, and agreed to update the parent input, and revise the following: reading, writing, and behavior goal, the accommodations and supplementary aids and services.

**CONCLUSION:**

Based on the Finding of Fact #7 through #9, MSDE finds that the MCPS did ensure that the IEP team considered the parent information and concerns at the IEP meetings since October 3, 2023, in accordance with 34 CFR § 300.324. Therefore, MSDE finds that a violation did not occur concerning the allegation.

**CORRECTIVE ACTIONS AND TIMELINES:**

The IDEA requires that State complaint procedures include those for effective implementation of the decisions made as a result of a state complaint investigation, including technical assistance activities, negotiations, and corrective actions to achieve compliance (34 CFR § 300.152). Accordingly, MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

MSDE has established reasonable timeframes 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, 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**

MSDE requires the MCPS to provide documentation by January 27, 2025, that the IEP team has taken the following action:

- a. Ensured that the student is provided with instruction as required by the IEP; and
- b. Convened an IEP team meeting and determined the compensatory services to remediate the violations identified through this investigation and developed a plan for the implementation of the services within one year of the date of this Letter of Findings.

The MCPS must ensure that the parents are provided with written notice of the team's decisions. The parents maintain the right to request mediation or to file a due process complaint to resolve any disagreement with the team's decisions.

### **School-Based**

MSDE requires the MCPS to provide documentation by January 27, 2025, of the steps it has taken to ensure that the [REDACTED] staff ensures provision of instruction, under the IDEA. These steps must include staff development, as well as tools developed to monitor compliance.

Specifically, the MCPS must provide a monitoring report for 10 randomly selected students at [REDACTED], reflecting data demonstrating compliance with the provision of special education instruction. Full compliance is required. If 100% compliance is not reported, a second sample will be reported by March 27, 2025. If 100% compliance is not obtained, MCPS will confer with MSDE to determine the next steps.

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.

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<sup>1</sup> The United States Department of Education, Office of Special Education Programs (OSEP) states that the public agency correct noncompliance in a timely manner, which is as soon as possible, but not later than one (1) year from the date of identification of the noncompliance. The OSEP has indicated that, in some circumstances, providing the remedy could take more than one (1) year to complete. If noncompliance is not corrected in a timely manner, MSDE is required to provide technical assistance to the public agency, and take tiered enforcement action, involving progressive steps that could result in the redirecting, targeting, or withholding of funds, as appropriate.

<sup>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.

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/ra

c: Dr. Thomas Taylor, Superintendent, MCPS  
Peggy Pugh, Chief Academic Officer, MCPS  
Diana K. Wyles, Associate Superintendent, Office of Special Education, MCPS  
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS  
[REDACTED], [REDACTED] School, Principal, MCPS  
Dr. Paige Bradford, Chief, Specialized Instruction, MSDE  
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE  
Alison Barmat, Branch Chief, Family Support and Dispute Resolution Branch, MSDE  
Nicole Green, Compliance Specialist, MSDE  
Tracy Givens, Section Chief, Dispute Resolution, MSDE  
Rabiatu Akinlolu, Compliant Investigator, MSDE