


November 26, 2024




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

RE: 
Reference: # 25-093

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 11, 2024, MSDE received a complaint from , hereafter, “the complainant,” on behalf of the above-referenced student. In that correspondence, the complainant alleged that the Montgomery County Public Schools (MCPS) violated certain provisions of the Individuals with Disabilities Education Act (IDEA) concerning the above-referenced student.

MSDE investigated the following allegations:

1. The MCPS has not ensured that the Individualized Education Program (IEP) contains appropriate measurable goals and a statement of the student’s present levels of academic achievement and functional performance (PLAAFP) since October 2023, in accordance with 34 CFR § 300.320.
2. The MCPS had not developed an IEP that addressed the student’s identified speech-language, handwriting, and occupational therapy (OT) needs since October 2023, in accordance with 34 CFR §§ 300.101 and .324.
3. The MCPS did not follow proper procedures in making the determination that the student would participate in the alternative Maryland School Assessment and would pursue a Certificate of Program Completion instead of a high school diploma since October 2023, in accordance with 34 CFR § 300.320 and COMAR 13A.03.02.09.
4. The MCPS did not provide the complainant with prior written notice (PWN) of the IEP team’s decision to change the student’s least restrictive environment (LRE), specifically to a separate classroom setting implementing Alternative Learning Outcomes (ALO), since October 2023, in accordance with 34 CFR § 300.503.

5. The MCPS did not ensure that the complainant was provided with accessible copies of each assessment, report, data chart, draft IEP, or other documents the IEP team planned to discuss at the IEP team meeting at least five business days before the scheduled meeting since October 2023, in accordance with COMAR 13A.05.01.07.
6. The MCPS did not provide the complainant with a copy of the IEP document within five business days after the IEP team meetings since October 2023, in accordance with COMAR 13A.05.01.07.
7. The MCPS has not ensured that the IEP team addressed the parent's concerns regarding the student's lack of progress since October 2023, in accordance with 34 CFR § 300.324.
8. The MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record, specifically the speech-language and OT service logs, since February 2024, in accordance with 34 CFR § 300.613.
9. The MCPS has not ensured that a Functional Behavior Assessment (FBA), High Incidence Accessible Technology (HIAT), and the MCPS' InterACT assessments were conducted in response to a request when conducting a reevaluation of the student since February 2024, in accordance with 34 CFR §§ 300.303 - .311 and COMAR 13A.05.01.06.

BACKGROUND:

The student is 13 years old and is identified as a student with autism under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

SUMMARY OF FINDINGS AND CONCLUSIONS:

In its written response, the MCPS acknowledges that the violations occurred with respect to the allegations identified since October 2023.

MSDE concurs with the MCPS' conclusions and appreciates the school system's response to the investigation.

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.

MSDE has established reasonable time frames below to ensure that noncompliance is corrected in a timely manner.¹ This office will follow up with the public agency to ensure that it completes the required actions consistent with the 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.² Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student-Specific

MSDE requires the MCPS to provide documentation, by January 17, 2025, that the IEP team has:

- a. Responded to the complainant's request to review the student's educational record;
- b. Convened an annual review and develop an IEP to address the student's needs and the parent's concerns for the student's learning and progress, including reviewing and revising as necessary the student's Present Levels of Academic Achievement and Functional Performance and goals;
- c. Reviewed and revised, if necessary, the student's eligibility to participate in the alternative Maryland State Assessment and document the team's determination that the student should pursue a Certificate of Program Completion instead of a high school diploma;
- d. Considered the need for an FBA and assistive technology assessments;
- e. Determined the amount and nature of compensatory services or other remedies to redress the violations identified in this Letter of Finding; and
- f. 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 parent is provided with prior written notice of the team's decisions. The parent 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 January 17, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for conducting an annual review within the required timelines, developing an IEP that addresses all areas of need with appropriate measurable goals and PLAAFP, provision of IEP documents before and after IEP team meetings, responding

¹ 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, the 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.

² MSDE will notify the public agency's Director of Special Education of any corrective action that has not been completed within the established timeframe.

to requests to access educational records, and completing agreed upon assessments under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance. A monitoring report for 10 randomly selected students at [REDACTED] must be submitted to

MSDE by January 30, 2025, reflecting full compliance with the following requirements:

- Alignment between PLAAFPs and goals
- Measurable goals
- Provision of documents to families 5 days before and 5 days after IEP team meetings
- Timely completion of assessments

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/sd

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