

December 9, 2025

[REDACTED]

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

Re: [REDACTED]
Reference: # 25-094

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 [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 developed an Individualized Education Program (IEP) that addresses the student's identified academic, behavioral, and occupational therapy needs since October 11, 2023, in accordance with 34 CFR § 300.324.
2. The MCPS did not ensure the parent was afforded an opportunity to participate when revising the IEP since October 11, 2023, in accordance with 34 CFR § 300.322.
3. The MCPS did not ensure that the complainant was provided with accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at IEP team meetings since October 11, 2023, 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's information and concerns at the IEP meetings held since October 11, 2023, in accordance with 34 CFR § 300.324.
5. The MCPS did not provide a copy of the IEP document within five business days after the IEP team meeting held since October 11, 2023, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07.
6. The MCPS did not ensure that the IEP team followed proper procedures to obtain parental consent before determining that the student will receive instruction and assessment using alternate standards, in accordance with Md. Code Ann., Educ. § 8-405.
7. The MCPS did not provide prior written notice of the IEP team's decisions from the IEP team meetings held since October 11, 2023, in accordance with 34 CFR § 300.503.
8. The MCPS did not follow proper procedures when disciplinarily removing the student from the school bus since October 11, 2023, in accordance with 34 CFR § 300.530 and COMAR 13A.08.03.
9. The MCPS did not ensure that the student has been consistently provided with speech-language services and special education instruction as required by the IEP since October 11, 2023, in accordance with 34 CFR § 300.101 and .323.
10. The MCPS did not follow proper procedures when conducting a reevaluation of the student, in accordance with 34 CFR §§ 300.303-.311.

BACKGROUND:

The student is 10 years old and is a student with autism under the IDEA. He attends [REDACTED] and has an IEP that requires the provision of special education.

ALLEGATIONS #1 and #9

DEVELOPED IEP, PROVISION OF SPEECH-LANAGUAGE AND, SPECIAL EDUCATION INSTRUCTION

FINDINGS OF FACT:

1. The IEP in effect on October 11, 2023, was developed on April 19, 2023. The IEP reflects the following areas are impacted by the disability: math calculation; reading comprehension; reading phonics; reading phonics; reading vocabulary; speech-language expressive, pragmatics, and receptive language; written language mechanics; social emotional/behavioral; and fine motor. The Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflect parent input and how disability impacts the student's involvement in the general education classroom.

The IEP reflects the functional behavior assessment (FBA) was completed on November 30, 2022, and a behavior intervention plan (BIP) was developed on April 19, 2023.

The IEP requires instructional and assessment accessibility and accommodation features, supplementary aids, services, program modifications and supports, and assistive technology devices and services.

The IEP requires 24 hours and 30 minutes per week of special education instruction outside the general education setting to be provided by the special education teacher, general education teacher, and/or instructional assistant.

The IEP requires occupational therapy (OT) as a related service outside of the general education setting for 30 minutes per week. The IEP requires speech-language as a related service outside of the general education setting for 15 minutes per week.

There is no documentation of areas of concern that are not addressed by the IEP.

2. There is no documentation that the IEP team convened on or prior to April 17, 2024, to ensure that the IEP was reviewed/revised annually.
3. On May 20, 2024, August 28, 2024, and September 2024, the IEP was reviewed and revised. The IEP reflects the following areas that are impacted by the student's disability: early math literacy, listening comprehension, math calculation, reading phonics, reading vocabulary, speech-language expressive, pragmatics, and receptive language, written language expression, social emotional/behavioral, fine motor. The PLAAFP reflects parent input and a description of how disability impacts the student's involvement in the general education classroom.

The IEP requires goals in reading phonics; written language expression; reading vocabulary; speech-language receptive, pragmatics, and expressive; social/emotional/behavioral; listening comprehension; and early math literacy.

The IEP reflects the functional behavior assessment (FBA) was completed on November 30, 2022, and a behavior intervention plan (BIP) was developed on April 24, 2024.

The IEP requires instructional and assessment accessibility and accommodation features, supplementary aids, services, program modifications and supports, assistive technology devices and services.

The IEP requires 28 hours and 10 minutes per week of special education instruction outside the general education setting to be provided by the special education teacher and/or instructional assistant. The IEP requires two hours and 30 minutes per week of special education instruction inside of the general education setting to be provided by the special education teacher and/or instructional assistant.

The IEP requires occupational therapy (OT) as a related service outside the general education setting for 30 minutes per month. The IEP requires speech-language as a related service outside the general education setting for one hour and 15 minutes per week.

There is no documentation of areas of concern that are not addressed by the IEP.

4. Although there is some documentation that the student has been provided with speech-language services, the documentation does not reflect that the student was consistently provided with speech-language services, as required by the IEP since October 11, 2023.
5. There is no documentation that the student was provided with the special education instruction as required by the IEP, since October 11, 2023.

CONCLUSIONS:

IEP Development

Based upon the Findings of Fact #1 and #3, MSDE finds that the MCPS has developed an IEP that addresses the student's identified academic, behavioral, and occupational therapy needs since October 11, 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Based on the Findings of Fact #2, MSDE finds that the MCPS did not ensure that the IEP was reviewed at least annually in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

Provision of Speech-Language and Special Education Instruction

Based on the Findings of Facts #1, #2, #4, and #5, MSDE finds that the MCPS did not ensure that the student has been consistently provided with speech-language services and special education instruction as required by the IEP since October 11, 2023, in accordance with 34 CFR § 300.101 and .323. Therefore, this office finds that a violation occurred concerning this allegation.

ALLEGATION #2, #4 and #7

PARENT PARTICIPATION, PARENT INPUT, AND PRIOR WRITTEN NOTICE

FINDINGS OF FACTS:

6. The prior written notice (PWN) generated following an IEP team meeting on May 20, 2024, reflects that the IEP team convened for the purpose of reviewing and revising the IEP. The PWN generated following the IEP team meeting reflects:
 - The complainant and consultant proposed updating present levels to include the status of current goals, source of data, update trend data, noted errors on the first page of the IEP and proposed changes to multi-lingual learner status, the need for support/supervision during an emergency evacuation, asked clarifying questions, and asked that the information be included in the IEP.
 - The IEP team considered the student's progress on goals and objectives, current classroom data, and input from the parents.
 - The team agreed to provide more information in the next draft of the IEP and to correct errors prior to the next IEP meeting.
 - The IEP team proposed and agreed to a continuation meeting.

There is no documentation that the complainant was provided progress on goals and objectives and current classroom data five business days before the IEP team meeting.

There is no documentation that the PWN was provided to the complainant.

7. The PWN generated following the August 28, 2024, IEP team meeting reflects:
- The IEP team reviewed the student's speech-language present levels.
 - Parent/advocate proposed adding additional data to present levels, additional data from June, ESY and the current school year, and requested a trial with an augmentative and alternative communication (AAC) device. The complainant shared that the student is using an AAC device at home and is seeing growth. The IEP team encouraged the complainant to send the device so the student can use it at school and to share video of his use of the device at home. The IEP team also agreed to share video/data of the student's use of low and high tech AAC support in school.
 - The IEP team proposed completion of psychological, educational, and fine motor assessments. The team proposed using the speech-language data, informal observation, and consideration of external report from the private speech-language assessment.
 - The IEP team considered the student's progress on goals and objectives, current classroom data, and input from the parent.
 - The IEP team proposed continuing the meeting to address the parent's request to include additional data.

There is no documentation that the complainant was provided progress on goals and objectives and current classroom data five business days before the IEP team meeting.

There is no documentation that the PWN was provided to the complainant.

8. The PWN generated following an IEP team meeting on September 24, 2024, reflects the IEP team reconvened to develop the IEP.
- The complainant raised concerns about the data used for the present levels, including that the math present level had one sentence. The complainant also expressed concern that the student has not made progress and would like a different placement.
 - The complainant and her consultant left the meeting, stating that the team can proceed without them. The IEP team requested that they remain to collaborate and discuss services and placement. The IEP team continued with the meeting.
 - The IEP team continued with the meeting without the parents.
 - The IEP team considered the [student's] progress on goals and objectives, current classroom data, and input from the parents.
 - The IEP team: reviewed present levels, proposed and agreed that the student participate in Alternate Learning Outcomes (ALO) framework and Alternative State Assessments (ASA) proposed a trial on the use of AAC device, reviewed supplementary aids and services, reviewed accommodations, proposed speech-language and OT as related services, determined special education instruction services, proposed continued placement in the Autism program at [REDACTED], and proposed to defer the discussion of extended school year.

There is no documentation that the complainant was provided progress on goals and objectives and current classroom data five business days before the IEP team meeting.

There is no documentation that the PWN was provided to the complainant.

CONCLUSION:

Parent Participation

Based on the Findings of Fact #6 through #8, MSDE finds that the parent participated in IEP team meetings on May 20, 2024, and August 28, 2024. At the September 24, 2024, IEP team meeting, the parent attended the meeting and voluntarily left before it was over. MSDE finds that the MCPS did ensure the parent was afforded an opportunity to participate when revising the IEP since October 11, 2023, in accordance with 34 CFR § 300.322. Therefore, this office finds that a violation did not occur concerning this allegation.

Parent Input

Based on the Finding of Fact #6 through #8, MSDE finds that the MCPS did ensure that the IEP team considered the parent's information and concerns at the IEP meetings held since October 11, 2023, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning this allegation.

Prior Written Notice

Based on the Findings of Fact #6 through #8, MSDE finds that the MCPS did not provide prior written notice of the IEP team's decisions from the IEP team meetings held since October 11, 2023, in accordance with 34 CFR § 300.503. Therefore, this office finds that a violation did occur concerning this allegation.

ALLEGATION #3 and #5

**IEP DOCUMENTS BEFORE, AND IEP DOCUMENTS AFTER THE
IEP TEAM MEETING**

FINDING OF FACT:

9. There is no documentation that the MCPS provided a copy of the IEP document within five business days after the IEP team meeting held on September 24, 2024.

CONCLUSION:

IEP Documents Before IEP Team Meeting

In this case, the IEP team reviewed progress on goals and current classroom data at the IEP team meetings on May 20, August 28, and September 24, 2024. There is no documentation that the complainant was provided accessible copies prior to the IEP team meeting.

Based on the Findings of Fact #6 through #8, MSDE finds that the MCPS did not ensure that the complainant was provided with accessible copies of each assessment, report, data chart, draft IEP, or other document the IEP team planned to discuss at IEP team meetings since October 11, 2023, at least five business days before the scheduled meetings, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning this allegation.

IEP Documents After IEP Team Meeting

Based on the Finding of Fact #9, MSDE finds that the MCPS did not provide a copy of the IEP document within five business days after the IEP team meeting held since September 24, 2024, in accordance with 34 CFR § 300.322 and COMAR 13A.05.01.07. Therefore, this office finds that a violation occurred concerning this allegation.

ALLEGATION #6

ALTERNATIVE ASSESSMENT

FINDING OF FACT:

10. There is no documentation that the BCPS obtained written consent for the student to receive instruction using the alternative academic achievement standards for the IEP developed on September 24, 2024.

DISCUSSION AND CONCLUSION:

Parents must provide written consent for their child to participate in the Maryland Alternate Assessments and/or instruction aligned with alternate academic achievement standards (Md. Code Ann., Educ. §8-405(f)). The IEP Team must affirm that the parent understands the decision-making process, including that the decision is reviewed annually, and the implications of the decision, namely that if the student continues with instruction and assessment according to the AAAS, they will be unable to complete the requirements for a Maryland High School Diploma. (MSDE Alternate Education Framework December 2022).

In this case, there is no documentation that the parent provided annual consent on May 20, 2024, August 28, 2024, and September 24, 2024, when the IEP was developed. The complainant provided written consent on April 19, 2023.

Based on the Finding of Facts #8, MSDE finds the MCPS did not ensure that the IEP team followed proper procedures when it determined the student will be provided with alternate standards and a Maryland High School Diploma in accordance with MSDE Alternate Education Framework, in accordance with Md. Code Ann., Educ. §8-405(f). Therefore, this office finds that a violation occurred concerning this allegation.

ALLEGATION #8

DISCIPLINARY REMOVAL

FINDING OF FACT:

11. There is no documentation to support the complainant's allegation that the student was disciplinarily removed from the school bus since October 11, 2023.

CONCLUSION:

Based on the Finding of Fact #11, MSDE finds that there is no documentation that the student was disciplinarily removed from the school bus since October 11, 2023, in accordance with 34 CFR § 300.530 and COMAR 13A.08.03. Therefore, MSDE finds that a violation did not occur concerning this allegation.

ALLEGATION #10

REEVALUATION PROCEDURES

FINDINGS OF FACT:

12. The IEP developed on May 20, 2024, reflects the most recent reevaluation date of June 21, 2021.
13. On August 28, 2024, a notice of consent for assessment was generated. The notice reflects the IEP team required additional information and proposed assessments in order to determine present level of academic achievement and developmental needs. The form reflects that the team considered: a Prince Georges County Public Schools' 2020 and 2021 psychoeducational assessments, a [REDACTED] speech-language assessment, and present level data.

The notice reflects that the team recommended the following assessments: reading, mathematics, writing language, functional/adaptive performance, intellectual/cognitive functioning, emotional/social/behavior development, fine motor, observation, and other: speech-language data, informal observation, and consideration of external private speech-language assessment.

14. The PWN generated following an IEP team meeting on November 26, 2024, reflects that the team reviewed the psychological assessment, educational assessment, private speech assessment, summary of assistive technology (AT) device trial data, occupational therapy (OT) status update. The PWN reflects the IEP team proposed to conclude AT trial.

There is no documentation that the PWN was provided to the complainant.

DISCUSSION AND CONCLUSION:

A reevaluation may occur not more than once a year, must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary. 34 CFR § 300.303

In this case, the IEP reflects the most recent evaluation date is June 16, 2021, and a projected evaluation date of June 15, 2024.

Based on the Findings of Fact #1 and #12 through #14, MSDE finds that the MCPS did not follow proper timeline procedures when conducting a reevaluation of the student, in accordance with 34 CFR §§ 300.303 - .311. Therefore, this office finds that a violation occurred concerning this 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.¹ 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.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 February 15, 2025, that the IEP team has taken the following action:

- a. Provide the complainant with the PWNs developed from the meetings convened on November 14, 2023, December 11, 2023, and March 4, 2024.; and
- b. MSDE requires the MCPS to provide documentation by February 15, 2025, that it has convened an IEP team to determine the amount and nature of compensatory services or other remedy to redress the violations and develop a plan for the provision of those services within a 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.

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, 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.

School-Based

MSDE requires the MCPS to provide documentation by February 15, 2025, of the steps it has taken to ensure that the staff at [REDACTED] properly implements the requirements for annual review meetings, reevaluation procedures, the provision of IEP team meeting documents before and after the meetings, and the provision of PWN. Steps must include monitoring activities and professional development to ensure sustained compliance.

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/ra

c: Dr. Thomas Taylor, Superintendent, MCPS
Dr. 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], Principal, [REDACTED], 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