

December 26, 2024

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

RE: [REDACTED]
Reference: #25-112

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 28, 2024, MSDE received a complaint from [REDACTED], and [REDACTED] hereafter, "the complainants," 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 parent was provided with reports of quarterly progress toward achieving the annual speech-language Individualized Education Program (IEP) goals since May 2024, in accordance with 34 CFR § 300.320.
2. The MCPS has not ensured that the IEP contains appropriate measurable goals and a statement of the student's present levels of academic achievement and functional performance since May 2024, in accordance with 34 CFR § 300.320.
3. The MCPS has not ensured that the student has been provided with a reading intervention since May 2024, in accordance with 34 CFR §§ 300.101 and .323.
4. The MCPS has not ensured that the IEP team addressed parental concerns regarding the need for attention goals, the student's current present levels of functioning and academic performance, the alignment of all IEP goals with the student's needs, since October 16, 2024, in accordance with 34 CFR § 300.324.

5. The MCPS did not ensure the proper procedures were followed when responding to a request to inspect and review the student's educational record since October 16, 2024, in accordance with 34 CFR § 300.613. Specifically, the student's speech-language therapy service logs, recent teacher reports, and student work samples.
6. The MCPS has not followed proper procedures when responding to a request to amend the student's education record since October 24, 2024, in accordance with 34 CFR §§ 300.618 - .621.

BACKGROUND:

The student is 11 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. The student currently attends [REDACTED] School and has an IEP that requires the provision of special education instruction and related services.

FINDINGS OF FACT:

1. On May 29, 2024, the IEP team convened to update the student's annual IEP. The Prior Written Notice (PWN) generated after the meeting indicates that the IEP team utilized data from the Measures of Academic Progress (MAP-R), iReady Diagnostic, work samples, teacher input and data, informal teacher observations, quarterly IEP progress reports, parent input, and speech-language pathologist data and input to revise the annual goals, supplementary aids and services, and service hours.
2. The May 29, 2024, IEP reflects identified needs in the areas of reading comprehension, speech-language expressive language, speech-language receptive language, written language expression, and executive functioning. The IEP includes goals that address these areas of concern.

The May 23, 2024, IEP reflects the student requires:

- 10 hours per week of specialized instruction inside the general education classroom to receive support in English language arts, social studies, and science;
- Two hours per week of specialized instruction outside the general education classroom to receive support for reading comprehension; and
- 1 hour per week of speech-language services as a related service outside the general education classroom to address his needs in comprehension and oral expression.

The Present Levels of Academic Achievement and Functional Performance (PLAAFP) reflect that the student's disability of Other Health Impairment (OHI) due to Attention Deficit Hyperactivity Disorder (ADHD), affects his ability to follow multi-step directions/instructions, especially in written form. The IEP reflects that the student can have low energy when faced with non-preferred tasks and demonstrates inattention. The student requires support to check his work and to ask for help when needed. Additionally, he has difficulty with reading comprehension, listening comprehension, inferencing, and written expression skills.

The IEP reflects the student's academic goal in the area of Reading Comprehension states: "By May 2025, given researched based reading intervention, chunking of text, previewing of vocabulary, and supports for attention, [the student] will summarize, synthesize, and analyze grade level text and will

demonstrate the ability to integrate knowledge on the same topic, as seen on 4 out of 5 work samples, tests/quizzes, or teacher notes/data .”

This goal is not measurable as written.

The IEP reflects the student’s academic goal in the area of Written Language Expression states: “ By May 2025 given graphic organizers, brainstorming, verbal rehearsal of ideas, criteria for success, proofreading checklist, supports for attention, word processor, and using no more than one teacher prompt during each step of writing process, [the student] will routinely write over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audience, during 4 out of 5 writing samples, tests/quizzes, or teacher notes over a quarter.”

This goal is not measurable as written.

The IEP reflects the student’s academic goal in the area of Executive Functioning states: “By May 2025, given direct strategy instruction, adult modeling and feedback, repetition of directions, visual cues, and supports for attention, [the student] will demonstrate effective executive functioning skills across the school day, as seen on 4 out of 5 trials.”

This goal is not measurable as written.

3. The student’s progress report, dated November 1, 2024, reflects that the student is “making sufficient progress to meet goals” for all his annual goals. On November 13, 2024, the complainants received a copy of the progress report via email.
4. On October 16, 2024, the IEP team convened at the complainants' request to review and revise the IEP and, if appropriate, amend the student’s May 29, 2024, IEP. The PWN reflects that the meeting was rescheduled at the request of the complainants and their advocate to ensure the attendance of an MCPS special education supervisor/instructional specialist. Additionally, the PWN reflects that the IEP team provided a description of the logistics for the student’s speech sessions.
5. On October 23, 2024, the complainants received an email from an IEP team member providing them with a letter of invitation for an IEP meeting scheduled for November 13, 2024. The email also requested that the complainants share their concerns in advance so the IEP team could prepare. On October 24, 2024, the complainants responded via email, outlining corrections that needed to be made to the PWN from the October 16, 2024, IEP meeting as they disagreed with what was documented and additional revisions to be discussed and incorporated into the student’s IEP.
6. On November 13, 2024, the IEP team reconvened to review and revise the student’s IEP as appropriate. The PWN reflects the IEP team proposed to implement the IEP developed on May 29, 2024, and amended on November 13, 2024, based upon the IEP team’s review of the student’s PLAAFP, performance, development of appropriate goals, and supplementary aids and supports. The IEP team used Measures of Academic Progress (MAP-R), iReady Diagnostic, Work Samples, MCPS Staff Input, Informal Teacher Observations, Quarterly IEP Progress, Parent Input, and Educational Consultants Input to propose to update the IEP. During the IEP meeting, the IEP team proposed to:

- Review and update the PLAAFP as well as update it with the teacher report;

- Review and amend the student's supplementary aids and services (SAS);
- Review and incorporate the educational consultant's feedback regarding the IEP so that the IEP team could have the information to incorporate it into the IEP, as appropriate;
- Revise the IEP to accurately reflect the increased hours of support the student receives in reading comprehension, including the additional reading intervention services provided outside of the general education setting; and
- Add a written mechanic goal to the IEP.

The PWN reflects the IEP team at the parent's request also provided the student's reading intervention service time and service providers.

7. On November 25, 2024, the complainants were offered an opportunity to review the student's education records either on December 2nd, December 6th, or December 9th, or receive an electronic copy of the speech-language logs. The complainants also received a copy of the revised PWN to address the clerical errors of their name on the October 16, 2024, PWN. The complainants were also informed that the IEP team disagreed with the recommended changes to the PWN they presented via email on October 24, 2024, and provided the family with the information they needed to request a hearing if they disagreed with this decision.
8. On November 26, 2024, the complainants received an email from a member of the IEP team that provided the requested information from the November 13, 2024, IEP meeting and addressed their concerns. The email included:
 - The student's schedule;
 - Information about the reading intervention teachers;
 - Instructions on how to access the speech service logs as requested;
 - A draft IEP that addressed executive functioning and attention needs outlined in the previous IEP (June 14, 2023), with updated objectives related to executive functioning and attention; and
 - Notification of an update made to correct a clerical error.
9. On December 3, 2024, the complainants emailed the school administrator requesting the speech-language logs to be sent electronically. The complainants also raised concerns that they "do not feel that the PWN accurately represents the events that transpired and the comments that were made to them during the meeting on October 16, 2024." The email reflects the complainants "insist that this PWN does not capture the issues that were raised by them, and it misrepresents the reasons why the meeting was cut short. Please let us know the process for rebuttal of this PWN."
10. On December 11, 2024, the complainants were provided with a copy of the student's speech-language service logs.
11. On December 13, 2024, the complainants received a response email from the school administrator that if they wished to appeal the decisions about the PWN from the October 16, 2024, IEP meeting, they could contact the MCPS Division of Appeals.
12. There is documentation that the student has received a reading intervention as required by the IEP since May 2024.

CONCLUSIONS:

ALLEGATION #1

PROVISION OF PROGRESS REPORTS

Based on Finding of Fact #3, MSDE finds that the MCPS has ensured that the parent was provided with reports of quarterly progress toward achieving the annual speech-language IEP goals since May 2024, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation has not occurred concerning the allegation.

ALLEGATION #2

PLAAFPS AND MEASURABLE IEP GOALS

Based on Findings of Fact #6 and #8 MSDE finds that the MCPS has ensured that the IEP contains a statement of the student's present levels of academic achievement and functional performance since May 2024, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation has not occurred concerning this aspect of the allegation.

Based on Findings of Fact #2, MSDE finds that the MCPS has not ensured that the IEP contains measurable goals since May 2024, in accordance with 34 CFR § 300.320. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

ALLEGATION #3

PROVISION OF A READING INTERVENTION

Based on Findings of Fact #2, #6, #8, and #12, MSDE finds that the MCPS has ensured that the student has been provided with a reading intervention since May 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has not occurred concerning the allegation.

ALLEGATION #4

ADDRESSING PARENT CONCERN

Based on Findings of Fact #5, #6, #8, and #10, MSDE finds that the MCPS has ensured that the IEP team addressed parental concerns regarding the need for attention goals, the student's current present levels of functioning and academic performance, the alignment of all IEP goals with the student's needs, since October 16, 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation has not occurred concerning the allegation.

ALLEGATION #5

ACCESS TO THE STUDENT'S RECORD

Based on Findings of Fact #6 through #9, MSDE finds that the MCPS has ensured the proper procedures were followed when responding to a request to inspect and review the student's educational record (specifically, the student's speech-language therapy service logs, recent teacher reports, and student work samples) since October 16, 2024, in accordance with 34 CFR § 300.613. Therefore, this office finds that a violation has not occurred concerning the allegation.

ALLEGATION #6 REQUEST TO AMEND STUDENT RECORDS

Based on Findings of Fact #7, #9, and #11, MSDE finds that the MCPS has followed proper procedures when responding to a request to amend the student's education record since October 24, 2024, in accordance with 34 CFR §§ 300.618 - .621. Therefore, this office finds that a violation has not occurred concerning the allegation.

CORRECTIVE ACTION and TIMELINE

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, the MSDE requires the public agency to provide documentation of the completion of the corrective actions listed below.

The 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 Branch, MSDE, to ensure the effective implementation of the action. Ms. Green can be reached at (410) 767-7770 or by email at nicole.green@maryland.gov.

Student Specific

By March 1, 2025, the IEP team at [REDACTED] School must convene an IEP team meeting to review the student's annual goals and ensure that they are measurable and contain the required components (specifically, mastery and retention components).

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. Request for reconsideration must be sent to Tracy Givens, Section Chief, Dispute

¹ 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.

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Resolution, at Tracy.Givens@maryland.gov. 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

AH/sj

c:

Dr. Thomas Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
Kia Middleton Murphy, Director, Special Education, MCPS
Eve Janney, Compliance Specialist, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
[REDACTED], [REDACTED] School, Principal, MCPS
Dr. Antoine Hickman, Assistant State Superintendent, Division of Early Intervention and Special Education Services, MSDE
Dr. Paige Bradford, Section Chief, Performance Support and Technical Assistance, MSDE
Dr. Brian Morrison, Branch Chief, Policy and Accountability, MSDE
Tracy Givens, Section Chief, Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE