

December 31, 2024



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

Re: [REDACTED]
Reference: #25-120

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.

On November 1, 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.

ALLEGATIONS:

MSDE investigated the following allegations:

1. The MCPS did not ensure that accessible copies of each assessment, report, data chart, draft Individualized Education Program (IEP), or other documents the IEP team planned to discuss at the IEP team meetings, since August 2024, were provided at least five business days before each scheduled meeting, in accordance with COMAR 13A.05.01.03B(9).
2. The MCPS did not ensure that the IEP team considered the parent information and concerns at the IEP meeting held since August 2024, in accordance with 34 CFR § 300.324.
3. The MCPS has not developed and implemented an IEP that addresses the student's identified needs since August 2024, in accordance with 34 CFR §§ 300.101 and .324.
4. The MCPS did not provide prior written notice of the IEP team's decisions from the IEP team meetings held since August 2024, in accordance with 34 CFR § 300.503.
5. The MCPS did not ensure that the student's teachers had access to the student's IEP since August 2024, in accordance with 34 CFR § 300.101 and .323.

BACKGROUND:

The student is 16 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, #2, and #4

**IEP DOCUMENTS BEFORE IEP TEAM MEETING, PARENT
CONSIDERATION, and PRIOR WRITTEN NOTICE (PWN)**

FINDINGS OF FACT:

1. The MCPS five-day disclosure notice generated on October 17, 2024, for the October 25, 2024, IEP team meeting indicates that the following documents were emailed to the complainant: the draft IEP and report or summary report.
2. On October 17, 2024, the following documents were emailed to the complainant:
 - Teacher reports from the Biology, English, Ceramics, History and Resource Teachers
 - Draft IEP October 2024;
 - Present levels;
 - Parent Information Questionnaire; and
 - MCPS five-day disclosure notice.
3. The PWN generated following an IEP team meeting on October 25, 2024, reflects the IEP team convened in response to a request by the parents. The IEP team proposed and agreed to hold a reevaluation meeting to address the parents' concerns regarding the student's grades and to move the student into a supported Biology class in the second quarter.

The parents requested that Algebra 1 be removed from the student's schedule. The school-based team rejected this request due to the 4-year mathematics graduation requirements. The PWN reflects the school-based staff will confirm the requirement.

Additionally, the PWN reflects the parents request that the school-based team consider a five-year program in alignment with the [student's] mathematics requirement. The school-based staff agreed to consider the proposal of a five-year plan.

The PWN reflects per the parent request the MCPS proposed to complete a Functional Behavior Assessment (FBA).

The IEP team considered educational record, including grades, classroom-based assessments, teacher reports, and input from the parent and student.

The MCPS five-day verification notice of documents reflects that the PWN was provided to the complainant on October 28, 2024.

4. There is documentation that the complainant was provided with documents on November 14, 2024, in preparation of an IEP team meeting on November 21, 2024.
5. The PWN generated following an IEP team meeting on November 21, 2024, reflects the IEP team convened to discuss amendments, and the triennial reevaluation. The PWN reflects the IEP team reviewed existing data and determined that additional assessments are warranted to reconfirm continued eligibility and access to specially designed instruction.
 - The parents attended the IEP team meeting, and reiterated the request for an FBA/BIP;
 - The IEP team proposed and agreed to educational assessment, speech- language assessment (pragmatics, receptive, & expressive), occupational therapy (fine motor & visual motor), psychological assessment (cognitive, attention, executive functioning, adaptive, broad-band social/emotional), and a functional behavior assessment.; and

- The IEP team proposed and agreed to amend the IEP to include specified data points within present levels, supplementary aids and services to align with math and reading goals, clarify location and manner, and providers, the use of trend charts to determine their efficacy, additional home school communication, per parent request to be better informed, and to address frequency and manner of recording and reporting, deemed as adequate at 1x/week by case manager/resource teacher special education (RTSE) via email, and a High Incidence Accessible Technology (HIAT) consult to address fine motor and visual motor integration.

There is documentation that the complainant was provided with the PWN, generated following the IEP team meeting.

CONCLUSIONS:

IEP Documents Before IEP Team Meeting

Based on the Findings of Fact #1, #2, and #4, MSDE finds that the MCPS did 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 on October 25, 2024 and November 21, 2024 at least five business days before the scheduled meetings, in accordance with COMAR 13A.05.01.07. Therefore, this office finds that a violation did not occur concerning this allegation.

Parent Consideration and Concerns

Based on the Findings of Fact #3, and #5, MSDE finds that the MCPS did ensure that the IEP team considered the parent information and concerns at the IEP meeting held since August 2024, in accordance with 34 CFR § 300.324. Therefore, this office finds that a violation did not occur concerning this allegation.

ALLEGATION #3

DEVELOP AND IMPLEMENT IEP

FINDINGS OF FACT:

6. The IEP, in effect at the beginning of the 2024-2025 school year, was developed on January 18, 2024, and amended on May 31, 2024. The IEP reflects that the following areas are impacted by the student's disability: Math Problem Solving, Written Language Content, Self-management, Social Emotional/Behavioral.

The IEP includes present levels of academic achievement and functional performance (PLAAFP), statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum. The PLAAFP also includes input from the complainant.

The IEP requires assistive technology (AT) device(s) but does not require AT services. The IEP includes post-secondary transition goals.

The IEP requires the following instructional and assessment accessibility features: general administration directions read aloud and repeated as needed, redirect student, graphic organizer, small group, separate or alternative location, specified area or setting, frequent breaks, reduce distractions to self, reduce distractions to others, change location within school.

The IEP requires the following instructional and assessment accommodations: calculation device and mathematics tools on calculation sections of the mathematics assessments. calculation device and mathematics tools on non-calculation sections of mathematics assessments, mathematics, science, government response human scribe, English language arts/literacy (ELA/L), human scribe, monitor test response, and extended time (1.5X).

The IEP requires the following supplementary aids, services, program modifications and supports:

- daily - check for understanding;
- repetition of directions;
- enlarged writing spaces for math;
- sentence starters, and extenders;
- checklist and to do list;
- speech to text;
- tools for writing assignments;
- frequent and/ or immediate feedback;
- monitor independent work;
- adjusted workload;
- social skills training;
- sensory strategies and tools to support [Student] with coming when overwhelmed, over stimulated. (e.g. calming space, books, walks);
- structured and timed breaks during independent work in tasks;
- provide manipulatives and or sensory activities to promote listening and focusing skills;
- menu of coping skills;
- advanced 2-minute warnings for transitions/changes in activities;
- encourage/reinforce appropriate behavior in academic and non-academic settings;
- strategies to initiate and sustain attention;
- provide frequent changes in activities or opportunities for movement; and
- preferential seating.

The IEP requires goals in self-management, math problem solving, social/emotional/behavioral and written language content.

The IEP requires four hours and thirty minutes per day of special education instruction outside the general education setting to be provided by the special education teacher, and/or instructional assistant. The IEP requires 45 minutes per day of special education instruction inside the general education setting to be provided by the special education teacher, and/or instructional assistant.

The IEP requires 2 - 45-minute sessions per week of counseling services.

7. There is documentation that the student was provided with special education instruction, accommodations, supplementary aids and services, as required by the IEP.
8. There is documentation that the provision of counseling was substantially compliant.

CONCLUSIONS:

Development of IEP

Based on the Findings of Fact #6, the MCPS has developed an IEP that addresses the student's identified academic, related services, and social/behavioral needs since October 8, 2023, in accordance with 34 CFR § 300. 324. Therefore, this office finds that a violation did not occur concerning this aspect of the allegation.

Implementation of IEP

Based on the Findings of Fact #6 through #8 MSDE finds the MCPS has complied with implementing the IEP since August 2024, in accordance with 34 CFR § 300. 324. Therefore, this office finds that a violation has not occurred concerning this allegation.

ALLEGATION #5

TEACHERS ACCESS TO IEP

FINDINGS OF FACT:

9. There is no documentation that the teachers were provided with access to the student's IEP.
10. There is documentation that the teachers were provided with access to the student's IEP snapshot on September 3, 2024. The IEP snapshot includes accommodations, goals, special considerations, supplementary aids and services, test scores, special education services, related services, and the PLAAFP.

CONCLUSION:

Based on the Finding of Fact #9 and #10, MSDE finds that the MCPS did not ensure that the student's teachers had access to the student's IEP since August 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation occurred concerning this allegation.

Notwithstanding the violation, based on the Findings of Fact #7, #8, and #10, MSDE finds that the MCPS ensured that the teachers were provided with documentation of the accommodations, goals, special considerations, supplementary aids and services, test scores, special education services, related services, and the PLAAFP, that the IEP requires. Additionally, MSDE finds that the student was provided with the special education services required by the IEP. Therefore, no further student corrective action is required.

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.

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 March 3, 2025, that the teachers at [REDACTED] have been provided with access to their student's complete IEPs.

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. The written request for reconsideration should be provided to Tracy Givens, Section Chief, Dispute Resolution via email 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

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, MCPS
Dr. Paige Bradford, Section 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, Complaint Investigator, MSDE