


January 17, 2025





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

RE: 
Reference: #25-138

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.

ALLEGATION:

On November 19, 2024, MSDE received a complaint from  and , 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 allegation that the MCPS has not followed proper procedures when identifying and evaluating the student to determine if she is a student with a disability requiring special education and related services, since April 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06.

BACKGROUND:

The student is 10 years old and is supported by a 504 Plan¹. The student currently attends Rock View Elementary.

FINDINGS OF FACT:

1. On March 14, 2024, MCPS generated a Notice of Individualized Education Program (IEP) Team Meeting to be held on April 17, 2024, to review existing information to determine the need for additional data for an eligibility decision.

¹ “Section 504” refers to Section 504 of the Rehabilitation Act of 1973, requiring schools to provide a free appropriate public education (FAPE) to each eligible student, including the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of the student as adequately as the needs of a student without a disability are met. (34 CFR § 104.33).

2. On March 22, 2024, MCPS generated a Child Find Referral form for the student. The form reflects that the reason for the referral was due to concerns with the student's receptive language and Social/Emotional/Behavioral. The form notes the student displays difficulty with beginning a task, maintaining attention, being easily distracted, overactive, lacking self-control, being easily frustrated, distracting others, being aggressive towards others, and not accepting responsibility for her behaviors.²
3. The Child Find referral forms indicate the complainant expressed concerns regarding the student's severe anxiety and ongoing therapy. The private therapist recommended assessments to determine if the student has auditory processing issues, ADHD, or other disabilities. The complainants noted that the student sometimes becomes overwhelmed and shuts down as a result. Additionally, they reported the student struggles with focus.
4. On April 17, 2024, the IEP team convened in response to the Child Find Referral. The Prior Written Notice (PWN) generated after the meeting reflects that MCPS proposed not to conduct assessments to determine eligibility for special education services at this time.
5. The PWN reflects that the IEP team used data from the student's report card grades, Measures of Academic Progress (MAP) in math, MAP in reading, teacher reports, and parental input to determine that the student is performing at or above grade level in all academic areas with her 504 accommodations and general education supports. The team did not suspect that the student has an educational disability requiring specially designed instruction to progress in the general education curriculum.

The PWN reflects that the complainants agreed that "educational testing" is not needed at this time but expressed that testing is needed in the areas of "auditory processing, ADHD, and social/emotional." The PWN also indicates that the IEP team agreed to explore assessments through the student's 504 plan and that a meeting would be scheduled to address these concerns.

6. On April 17, 2024, MCPS generated a Notice of No Assessment Needed, stating that the student is not suspected of being a child with a disability or a child with a developmental delay. It was noted that no additional data or information is needed at this time.
7. On October 17, 2024, the complainants emailed a member of the MCPS school team requesting an IEP meeting to review the student's needs and determine if testing was needed.
8. On October 29, 2024, MCPS generated a Notice of IEP Team Meeting for an IEP meeting to be held on November 18, 2024, to discuss a new child find referral.
9. On October 30, 2024, MCPS conducted a classroom observation.
10. On November 1, 2024, MCPS generated a Child Find Referral due to additional concerns from the complainants regarding the student's social/emotional/behavioral, math calculation and written expression.
11. On November 13, 2024, the complainants completed the Parent Interview for Student Eligibility.

² As of the date of the meeting, the student was being supported by a 504 Plan, having been determined eligible for the plan on March 6, 2024.

12. On November 16, 2024, the complainants emailed members of the IEP team to cancel the proposed meeting to be held on November 18, 2024, because “the screening packet provided contains numerous inaccuracies and contradictions that prevent us from making informed decisions.” Specifically, the email reflects the disagreement was due to the “Educational History Report including several significant errors and omissions. It lacks a comprehensive synthesis of [student’s] past classroom performance and progress across grades, omits critical information about the implementation of her 504 Plan and the frequency and outcomes of her accommodations, and fails to include any analysis of her social-emotional and behavioral challenges.”

The email reflects that to “move forward, we request a revised Educational History Report that includes a detailed account of [the student’s] academic performance across all grades, the implementation and outcomes of her 504 Plan accommodations, behavioral and social-emotional data, and our input as parents. Additionally, we ask that all relevant data and documentation necessary to assess [the student’s] needs comprehensively be included.”

13. There is documentation indicating that the Child Find referral meeting was initially scheduled and confirmed for December 10, 2024. However, due to a scheduling conflict between both parties, the meeting was rescheduled to January 6, 2025³.
14. On December 20, 2024, a member of the IEP team provided the complainant with the Five-Day Disclosure Notice of Documents Provided to Parent/Guardian for Review at an IEP Meeting. The notice listed the documents that the IEP team planned to discuss, which included: Report Summary, Data Chart, Progress Summary, Observations, Educational History, 504 documents, Social/Emotional Report, Treatment Summary, Parent Questions, Procedural Safeguards, Previous Child Find Documents, and the Child Find Referral Form. Additionally, the email noted that “information will/can be added to these documents at the Child Find meeting as we are working as a team to support [student].”

CONCLUSION:

An IEP team must complete an initial evaluation of a student within 90 days of the public agency receiving a written referral. COMAR 13A.05.01.06(b)

In this case, the complainant alleges that the IEP team did not properly conduct a reevaluation meeting to determine if the student qualifies as a student with a disability. The complainant also alleges that the data used for the evaluation was not comprehensive⁴. In this case, the complainant requested an IEP meeting on October 17, 2024, to review the student’s needs and determine if testing was necessary. On November 1, 2024, MCPS generated a Child Find Referral Form initiating the evaluation process. To date, the LEA is still within the required timeline for completing the evaluation.

³ On January 6, 2025, MCPS was closed due to inclement weather.

⁴ The data referenced in the complaint was conducted under Section 504 evaluation. MSDE does not have the authority to investigate matters under Section 504; therefore, this aspect of the allegation was not investigated.

Based on Findings of Fact #7 through #14, MSDE finds that the MCPS is still in the process of identifying and evaluating the student to determine if she is a student with a disability requiring special education and related services, since April 2024, in accordance with 34 CFR §§ 300.301-.311 and COMAR 13A.05.01.06. Therefore, this office finds that the allegation is not ripe for investigation

TIMELINE:

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/sj

c: Dr. Thomas Taylor, Superintendent, MCPS
Dr. Peggy Pugh, Chief Academic Officer, MCPS
Diana K. Wyles, Associate Superintendent, MCPS
Eve Janney, Compliance Specialist, MCPS
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS
[REDACTED], Principal, MCPS
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
Alison Barbat, Branch Chief, Family Support and Dispute Resolution, MSDE
Stephanie James, Complaint Investigator, MSDE