

January 17, 2025



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

RE: [REDACTED]  
Reference: #25-141

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 November 19, 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 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 did not ensure that the Individualized Education Program (IEP) team convened to review the student’s IEP before April 16, 2024, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324.
2. The MCPS has not ensured that educational and speech-language assessments were conducted in response to a request when conducting a reevaluation of the student since August 6, 2024, in accordance with 34 CFR §§ 300.303-.311 and COMAR 13A.05.01.06.
3. 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 (PLAAFP) since November 2023, in accordance with 34 CFR § 300.320.

4. The MCPS has not ensured that the student was provided with the special education, related services, supplementary aids, services, and accommodations as required by the IEP since November 2023, in accordance with 34 CFR §§ 300.101 and .323.
5. The MCPS has not ensured that the IEP team addressed the parent's concerns regarding the student's social-emotional needs, behavioral needs, and attendance since August 2024, in accordance with 34 CFR § 300.324.
6. The MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the May 1, August 6, October 10, and November 7, 2024, IEP team meetings at least five business days before the scheduled meeting, in accordance with COMAR 13A.05.01.07.
7. The MCPS did not provide the parents with a copy of the IEP document within five business days after the IEP team meetings on May 1, August 6, and October 10, 2024, in accordance with COMAR 13A.05.01.07.

**BACKGROUND:**

The student is 15 years old and is identified as a student with Other Health Impairment (OHI) under the IDEA. She attends [REDACTED] and has an IEP that requires the provision of special education instruction and related services.

**FINDINGS OF FACT:**

1. The IEP developed on April 17, 2023, was amended on November 6, 2023, and has an annual review date of April 16, 2024. The IEP reflects math problem solving, reading comprehension, and written language expression as the areas affected by the student's disability.

The IEP requires the following:

- Three hours and 20 minutes daily of special education instruction inside the general education classroom for English, math, social studies and science; and
- 50 minutes daily of special education instruction outside the general education classroom for a daily self-contained resource class.

The PLAAFP reflects the following:

- Math problem solving is on the 4<sup>th</sup> grade level. The math problem solving PLAAFP further reflects "MAP-R" data from 2021, 2022, and 2023, as well as Woodcock Johnson IV (WJIV) data from 2021;
- Reading comprehension is on the 4<sup>th</sup> grade level. It is reflected that the student requires adult support to access class readings. The reading comprehension PLAAFP further reflects "MAP-R" data from 2021, 2022, and 2023, as well as WJIV data from 2021;
- Written language expression is on the 5<sup>th</sup> grade level. It is reflected that the student requires adult support for her writing assignments. The written expression PLAAFP further reflects grades from 2021 and WJIV data from 2021;
- Secondary Transition Employment reflects data from a MCPS 8<sup>th</sup> grade transition interview; and

- Secondary Transition Education/training reflects data from a MCPS 8<sup>th</sup> grade transition interview.

The IEP requires goals in the areas of:

- Secondary transition employment related goals:
  - “Reading Comprehension: Given a grade level text and access to read-aloud or text-to-speech accommodations, [the student] will analyze grade-level passages and interpret their meanings with 80% accuracy on classroom-based assessments by April of 2024;
  - Written Language Expression: Given prompts, graphic organizers, proofing/editing checklists, word processor, and teacher support, [the student] will write and edit a five-sentence paragraph that addresses a given subject in the general curriculum including a topic sentence, at least three details, and a conclusion with 80% accuracy on curriculum-based writing scored by teacher/rubric by April 2024;”
- Secondary transition education related goals:
  - “Reading Comprehension: Given a grade level text and access to read-aloud or text-to-speech accommodations, [the student] will analyze grade-level passages and interpret their meanings with 80% accuracy on classroom-based assessments by April of 2024;
  - Written Language Expression: Given prompts, graphic organizers, proofing/editing checklists, word processor, and teacher support, [the student] will write and edit a five-sentence paragraph that addresses a given subject in the general curriculum including a topic sentence, at least three details, and a conclusion with 80% accuracy on curriculum-based writing scored by teacher/rubric by April 2024;”
- Secondary transition training related goals: the IEP does not reflect any goals or data;
- Math problem solving: “Given supported instruction, examples, multiple opportunities for practice, and a calculation device, [the student] will reason, communicate, and think critically to solve math problems across the curriculum with 80% accuracy on classroom-based assessments by April 2024,”
- Reading comprehension: “Given a grade level text and access to read-aloud or text-to-speech accommodations, [the student] will analyze grade-level passages and interpret their meanings with 80% accuracy on classroom-based assessments by April of 2024;” and
- Written language expression: “Given prompts, graphic organizers, proofing/editing checklists, word processor, and teacher support, [the student] will write and edit a five-sentence paragraph that addresses a given subject in the general curriculum including a topic sentence, at least three details, and a conclusion with 80% accuracy on curriculum-based writing scored by teacher/rubric by April 2024.”

The IEP requires the provision of supplementary aids, services, and accommodations:

- Small group;
- Frequent breaks;
- Reduced distractions to self and others;
- Notes and outlines;
- Calculation device;
- Monitor test responses;
- Extended time (1.5x);
- Use of text-to-speech, daily;
- Monitor independent work, daily;
- Check for understanding, daily;

- Break down assignments into smaller units, as needed;
  - Encourage student to ask for assistance when needed, daily;
  - Safe haven location in the school building, as needed;
  - Flash pass to counseling or another trusted adult, as needed; and
  - Preferential seating, daily.
2. On April 17, 2024, the complainant emailed the MCPS requesting a full evaluation of the student since she has not had one since 2021. The MCPS responded to the complainant's email. The email reflects that they were going to reach out to the school psychologist to see if she was available to attend the meeting scheduled for May 1, 2024.
  3. While there was an IEP team meeting notice generated for May 1, 2024, there was no PWN generated following this meeting. The meeting notice reflects the purpose of the meeting to review the IEP, discuss ESY services, and proposed postsecondary goals and transition services. There is no documentation that this IEP team meeting was canceled. There is no documentation that the complainant was provided with the IEP documents planned to be discussed at this meeting five days prior.
  4. While there was an IEP team meeting notice generated for June 10, 2024, there was no PWN generated following this meeting. The meeting notice reflects the purpose of the meeting to review the IEP, discuss reevaluation, discuss ESY services, and proposed postsecondary goals and transition services. There is no documentation that this IEP team meeting was canceled. There is no documentation that the complainant was provided with the IEP documents planned to be discussed at this meeting five days prior.
  5. On August 6, 2024, the IEP team convened to discuss re-evaluation assessments and to review and revise the IEP. The Prior Written Notice (PWN) generated following this meeting reflects that the IEP team agreed to conduct a psychological and educational assessment and update the PLAAFP and goals. It is further reflected that the IEP team agreed to reconvene to discuss the complainant's request for a speech-language assessment. The PWN also reflects that the complainant did not receive the documents that the IEP team planned to discuss at this meeting five days prior to the meeting.
  6. On August 13, 2024, the complainant emailed the MCPS with concerns regarding when she would receive a completed IEP for the student. On August 14, 2024, the MCPS responded to the complainant's email. The email reflects that "I will be sure that someone follows up with you before the close of business today with an update..."
  7. On September 6, 2024, the complainant emailed the MCPS with concerns regarding the IEP team meeting and IEP that was reviewed at the August 6, 2024, IEP team meeting. The email further reflects that the complainant had not received the completed IEP document from the meeting held on August 6, 2024. In addition, the complainant explained that her daughter had "academic and social-emotional needs that must be addressed." The MCPS responded to the complainant's email on the same day. The response email reflects that the MCPS central office has received the message and will be working with the student's school to address the concerns.
  8. On September 23, 2024, the complainant emailed the MCPS with concerns regarding her daughter's education and IEP. On September 24, 2024, the MCPS responded to the complainant's email. The email reflects that "... to forward to appropriate staff members and provide you with a follow up."

9. On October 10, 2024, the IEP team convened to review and revise the IEP. The PWN generated following this meeting reflects that the IEP team updated the PLAAFP, supplementary aids, accommodations, and goals. It is further reflected that the complainant requested additional teacher reports, a review of the student's profile for additional recommendations, for the PLAAFP to have more data, and that ESY services were already decided in the IEP. The PWN also reflects that the complainant did not receive the documents that the IEP team planned to discuss at this meeting five days prior.
10. While there was an IEP team meeting notice generated for November 7, 2024, there was no PWN generated following this meeting. The meeting notice reflects the purpose of the meeting to review the IEP and discuss reevaluation. There is no documentation that this IEP team meeting was canceled. There is no documentation that the complainant was provided with the IEP documents planned to be discussed at this meeting five days prior.
11. There is documentation that the student was enrolled in the daily resource class as required by the IEP. Also, there is documentation that the student was provided with special education instruction, supplementary aids, services, and accommodations required by the IEP since November 2023.

#### **DISCUSSIONS AND CONCLUSIONS:**

##### **Allegation #1**

##### **Annual Review**

A public agency shall ensure that the IEP team meets periodically, but not less than annually, to review and revise the IEP (34 CFR § 300.324).

In this case, the student's IEP had an annual review date of April 16, 2024, but there is no documentation that the IEP team met prior to this date to ensure that the IEP was reviewed at least annually. Furthermore, there is no documentation that a finalized IEP has been provided to the family since April 17, 2023.

Based on the Findings of Fact #1 through #5, #9, and #10, MSDE finds that the MCPS did not ensure that the IEP team convened to review the student's IEP before April 16, 2024, in order to ensure that the IEP was reviewed at least annually, in accordance with 34 CFR § 300.324. Therefore, this office finds a violation occurred concerning the allegation.

##### **Allegation #2**

##### **Proper Procedures When Responding to a Request for Assessments**

In this case the August 6, 2024, IEP team agreed to conduct an educational assessment and reconvene to discuss the need for a speech-language assessment. There is no documentation that the assessments have been completed within the required timelines.

Based on the Findings of Fact #2 and #5, MSDE finds that the MCPS has not ensured that educational and speech-language assessments were conducted in response to a request when conducting a reevaluation of the student since August 6, 2024, in accordance with 34 CFR §§ 300.303-.311 and COMAR 13A.05.01.06. Therefore, this office finds a violation occurred concerning the allegation.

**Allegation #3** **An IEP that Contains Appropriate Measurable Goals and a Statement of the PLAAFP**

In this case, the student's IEP had an annual review date of April 16, 2024; however, the IEP was not reviewed prior to this date. While there is documentation that the goals and PLAAFP were updated at the October 10, 2024, IEP team meeting, at the time of this investigation there was no documentation that the IEP document itself had been updated. Therefore, the IEP's goals and PLAAFP were not updated to reflect the current abilities and needs since the April 14, 2023, IEP was developed.

Based on the Finding of Fact #1, MSDE finds that the MCPS has not ensured that the IEP contains appropriate measurable goals and a statement of the student's PLAAFP since November 2023, in accordance with 34 CFR § 300.320. Therefore, this office finds a violation occurred concerning the allegation.

**Allegation #4** **Provision of Special Education, Related Services, Supplementary Aids, Services and Accommodations**

In this case, the April 17, 2023, IEP does not reflect the requirement of related services.

Based on the Finding of Fact #1, MSDE finds that the MCPS was not required to ensure that the student was provided with related services as required by the IEP since November 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred concerning the allegation.

Based on the Findings of Fact #1 and #11, MSDE finds that the MCPS has ensured that the student was provided with the special education, supplementary aids, services, and accommodations as required by the IEP since November 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office does not find a violation occurred concerning the allegation.

**Allegation #5** **Addressing Parent Concerns**

Based on the Findings of Fact #2, and #5 through #8, MSDE finds that the MCPS has ensured that the IEP team addressed the parent's concerns regarding the student's social-emotional needs, behavioral needs, and attendance since August 2024, in accordance with 34 CFR § 300.324. Therefore, this office does not find a violation occurred concerning the allegation.

**Allegation #6** **Provision of IEP Document Five Days Prior To IEP Meetings**

The public agency must ensure that the parent of a student with a disability an accessible copy of each assessment, report, data chart, draft IEP, or other document the IEP team or other multidisciplinary team plans to discuss at that meeting, at least 5 business days before the scheduled meeting.

In this case, it is unclear what documents were reviewed at the May 1, June 10, and November 7, 2024, IEP team meetings as the IEP team did not generate a PWN following the meetings. Therefore, MSDE will assume that there were at least some documents reviewed at the meetings that should have been provided to the parent ahead of time.

Based on the Findings of Fact #3 through #5, #9, and #10, MSDE finds that the MCPS did not ensure that the parent was provided with accessible copies of each document the IEP team planned to discuss at the May 1, June 10, August 6, October 10, and November 7, 2024, IEP team meetings at least five business days before

the scheduled meeting, in accordance with COMAR 13A.05.01.07. Therefore, this office finds a violation occurred concerning the allegation.

#### **Allegation #7**

#### **Provision of IEP Document Five Days After IEP Meetings**

The public agency must ensure that the parent is provided with the completed IEP not later than five business days after a scheduled IEP or other multidisciplinary team meeting (COMAR 13A.05.01.07).

In this case, there is documentation that the IEP team convened on May 1, August 6, and October 10, 2024. There is no documentation that an IEP was completed or amended at these IEP team meetings.

Based on the Findings of Fact #3, #5, and #9, MSDE finds that the MCPS was not required to provide the parents with a copy of the IEP document within five business days after the IEP team meetings on May 1, August 6, and October 10, 2024, in accordance with COMAR 13A.05.01.07. Therefore, this office does not find a violation occurred concerning the allegation.

#### **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.<sup>1</sup> 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.<sup>2</sup> Ms. Green can be reached at (410) 767-7770 or by email at [nicole.green@maryland.gov](mailto:nicole.green@maryland.gov).

#### **Student-Specific**

MSDE requires the MCPS to provide documentation, by March 14, 2025, that the IEP team has taken the following action:

- a. Provided the complainant with a copy of each assessment, report, data chart, draft IEP, or other

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<sup>1</sup> 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.

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

document the IEP team or other multidisciplinary team discussed at the May 1, June 10, August 6, October 10, and November 7, 2024, IEP team meetings;

- b. Conducted an IEP team meeting to address the parent's concerns, conduct an annual review, and determine the amount and nature of compensatory services or other remedy to redress the violations identified in this Letter of Finding. The IEP team must consider:
  - i. The student's present levels of functioning and performance;
  - ii. The levels of functioning and performance that were expected to have demonstrated by the end of school year 2023-2024 based on the student's rate of progress;
  - iii. The services needed to remediate the violations identified in this investigation; and
- c. 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 March 14, 2025, of the steps it has taken to ensure that the [REDACTED] staff properly implements the requirements for the revision of an IEP annually, responding to a request for assessments, developing and implementing appropriate measurable goals and a statement of the PLAAFP, and providing parents with a copy of each assessment, report, data chart, draft IEP, or other document the IEP team or other multidisciplinary team plans to discuss at IEP team meetings under the IDEA and COMAR. These steps must include staff development, as well as tools developed to monitor compliance. A monitoring report reflecting a random sampling of 15 student's IEP reflecting full implementation of the student's services, supplementary aids and services, accommodations, proper procedures for completing reevaluations (including timelines), measurable goals, providing documents 5 days prior to and 5 days following IEP team meetings must be provided to MSDE on or before March 30, 2025. Full compliance is required.

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. The written request for reconsideration should be provided to Tracy Givens, Section Chief, Dispute Resolution via email [Tracy.Givens@maryland.gov](mailto: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/sd

c: Dr. Thomas Taylor, Superintendent, MCPS  
Dr. Peggy Pugh, Chief Academic Officer, MCPS  
Diana K. Wyles, Associate Superintendent, MCPS  
Gerald Loiacono, Supervisor, Resolution and Compliance Unit, MCPS  
Maritza Macias, Paralegal, Resolution and Compliance Unit, 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  
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