

January 17, 2025



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

Re: [REDACTED]
Reference: #25-144

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 20, 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 ensured that the Individualized Education Program (IEP) addresses the student's motor, and speech needs, in accordance with 34 CFR § 300.324 since November 20, 2023. Specifically, you allege that the IEP:
 - a. The IEP does not contain a statement of the student's present levels of academic achievement and functional performance in order to properly identify and address the student's speech-language and motor needs that arise from the disability;
 - b. The IEP team did not develop speech-language and occupational therapy (OT) goals and objectives consistent with the decision made by the team.
2. The MCPS has not ensured that the student has been consistently provided with speech-language, OT, one-to-one support, and transportation services as required by the IEP since November 20, 2023, in accordance with 34 CFR §§ 300.101 and .323.
3. The MCPS has not ensured access to the educational record in response to a request since November 2024, in accordance with 34 CFR § 300.613.

BACKGROUND:

The student is five years old and is a student with Autism under the IDEA. He attends a private day care and has an IEP that requires the provision of special education services.

ALLEGATIONS #1 and #2

**IEP ADDRESSES SPEECH-LANGUAGE AND OT, PROVISION OF SPEECH,
OT, ONE-TO-ONE AND TRANSPORTATION**

FINDING OF FACT:

1. The IEP in effect on November 12, 2023, was developed on December 22, 2022. The IEP reflects the following areas impacted by the student's disability: Language and Literacy, Mathematics, Physical well-being and Motor Development, and Social Foundations. The IEP early literacy and language narrative includes a discussion of the student's speech-language skills. The IEP physical well-being and motor development narrative identifies the student's areas of need.

The IEP requires the following goals to address speech-language and motor needs:

- Language and Literacy - "speech-language: By December 2023, [Student] will respond meaningfully to at least 8 direction words (e.g. give, point, touch) in simple 1-step directions with no more than 1 repetition in 4 out of 5 opportunities"
- Language and Literacy - "speech-language: By December 2023, [Student] will use any combination of gestural, verbal, visual and/or augmentative/alternative communication methods to participate in three types of interactions such as greetings, requests for objects, requests for help, and protests with familiar peers and adults in the school setting."
- Physical well-being and motor development "By 12/31/2023, [Student] will independently demonstrate functional fine and visual motor skills to participate in classroom activities in 3 out of 4 opportunities as demonstrated by therapist observation."
- Physical well-being and motor development - By 12/31/2023, [Student] will independently demonstrate functional self-help skills to participate in classroom activities in 3 out of 4 opportunities as demonstrated by therapist/teacher observation.

The IEP requires 2- 45-minute sessions per week of special education instruction inside the general education setting to be provided by the special education teacher. The IEP requires 30 minutes per week of OT outside of the general education setting. The IEP requires 2-45-minute sessions per week of speech-language services outside of the general education setting.

The IEP requires transportation.

The IEP does not require a one-to-one instructional assistant.

2. The IEP developed on November 29, 2023, reflects the following areas impacted by the student's disability: Language and Literacy, Mathematics, Physical well-being and Motor Development, and Social Foundations. The IEP early literacy and language narrative includes a discussion of the student's speech-language skills. The IEP physical well-being and motor development narrative identifies the student's areas of need.

The IEP requires the following goals to address speech-language and motor needs:

- Language and Literacy - "speech-language: By November 2024, [Student] will complete simple directions, identify related items and object functions, and show comprehension of actions in 4 out of 5 opportunities."
- Language and Literacy - "speech-language: By November 2024, [Student] will use any combination of gestural, verbal, visual, and/or augmentative/alternative communication methods to greet adults and peers, request objects, request help, and answer simple "wh" questions."
- Physical well-being and motor development - "By 12/31/2023, [Student] will independently demonstrate functional fine and visual motor skills to participate in classroom activities in 3 out of 4 opportunities as demonstrated by therapist observation."
- Physical well-being and motor development "By 12/31/2023, [Student] will independently demonstrate functional self-help skills to participate in classroom activities in 3 out of 4 opportunities as demonstrated by therapist/teacher observation."

The IEP does not require a one-to-one instructional assistant.

The IEP requires 2- 45-minute sessions per week of special education instruction outside the general education setting to be provided by the special education teacher. The IEP requires 30 minutes per week of OT outside of the general education setting. The IEP requires 2-45-minute sessions per week of speech-language services outside of the general education setting.

3. The IEP developed on February 23, 2024, reflects the following areas impacted by the student's disability: Language and literacy, Mathematics, Physical well-being and Motor Development, and Social Foundations. The IEP early literacy and language narrative includes a discussion of the student's speech-language skills. The IEP physical well-being and motor development narrative identifies the student's areas of need.

The IEP requires the following goals to address speech-language and motor needs:

- Language and literacy - "speech-language: By February 2025, [Student] will complete simple directions, identify related items and object functions, and show comprehension of actions in 4 out of 5 opportunities."
- Language and Literacy - "speech-language: By February 2025, [Student] will use any combination of gestural, verbal, visual and/or augmentative/alternative communication methods to greet adults and peers, request objects, request help, and answer simple "wh" questions."
- Physical well-being and motor development "By 2/25/2025, [Student] will independently demonstrate functional self-help skills to participate in classroom activities in 3 out of 4 opportunities as demonstrated by therapist/teacher observation."
- Physical well-being and motor development "By 02/2025, [Student] will independently demonstrate functional fine and visual motor skills to participate in classroom activities in 3 out of 4 opportunities as demonstrated by therapist observation."

The February 23, 2024, IEP continued the weekly special education, OT, and speech-language services as required in the previous IEP.

The IEP team determined that [Student] will continue to receive his specialized instruction in the general education setting through the PEP itinerant program. Given the supports and services, [the student] is able to make adequate progress towards his goals at this time. He will receive his speech-language services and occupational therapy services outside of the general education setting to work on specific targeted skills.

4. No documentation was provided that the student received speech-language services as required by the IEP from November 2023 through September 2024.

No documentation was provided that the student consistently received speech-language services as required by the IEP since October 2024.

5. While there is documentation that the student was provided with OT services, documentation was not provided that the student consistently received OT services as required by the IEP from June 2023 through September 2024.
6. The IEP reflects an amendment on October 24, 2024. The amended IEP requires transportation as of September 19, 2024.
7. No documentation was provided that the student has been provided with transportation, as required by the IEP.

CONCLUSIONS:

IEP Addresses Speech-Language and OT Needs

Based on the Finding of Fact #1 through #3, MSDE finds that the MCPS has ensured that the IEP addresses the student's motor and speech needs, since November 20, 2023, in accordance with 34 CFR § 300.324. Specifically, the IEP contains a statement of the student's present levels of academic achievement and functional performance to properly identify and address the student's speech-language and motor needs that arise from the disability. The IEP team developed speech-language and OT goals and objectives consistent with the decisions made by the IEP team. Therefore, this office finds that a violation did not occur concerning the allegation.

Provision of Speech-Language

Based on the Findings of Fact #1 through #4 MSDE, finds that the MCPS has not ensured that the student has been provided with speech-language services as required by the IEP since November 20, 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

Provision of OT

Based on the Findings of Fact #1 through #3, and #5 MSDE, finds that the MCPS has not ensured that the student has been consistently provided with occupational therapy services as required by the IEP from June 2024 through September 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred concerning this aspect of the allegation.

Provision of One-to-One

Based on the Findings of Fact #1 and #2, MSDE finds that the IEP does not require one- to-one instructional assistant. Therefore, the MCPS was not required to provide one-to-one services since November 20, 2023, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has not occurred concerning this allegation.

Provision of Transportation

Based on the Findings of Fact #1, #6, and #7, MSDE finds that the MCPS has not ensured that the student has been consistently provided with transportation services as required by the IEP from November 20, 2023, through November 29, 2023, and since September 19, 2024, in accordance with 34 CFR §§ 300.101 and .323. Therefore, this office finds that a violation has occurred concerning this allegation.

ALLEGATION #3

RESPONSE TO RECORD REQUEST

FINDING OF FACT:

1. On November 10, 2024, the complaint requested the speech-language and OT service logs.
On December 4, 2024, the MCPS provided the complaint with the speech-language and OT service logs.

CONCLUSION:

Based on the Finding of Fact #8, MSDE finds that the MCPS has ensured access to the educational record in response to a request since November 2024, in accordance with 34 CFR § 300.613. Therefore, this office finds that a violation has not 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 March 15, 2025, that the IEP team has taken the following action:

- a. Provided the student with speech-language services, OT services and transportation as required by the IEP; and
- b. Convened an IEP team meeting and determined the compensatory services to remediate the violations identified through this investigation and 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 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.

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. Requests for reconsideration must be sent to Tracy Givens, Section Chief, Dispute Resolution Branch, 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.

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, the 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.

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], [REDACTED], 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, Compliant Investigator, MSDE